

## **Chapter 2**

### **ADMINISTRATION\***

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\* **State Law References:** Public offices and officers, general duties, M.S.A., § 28-746 et seq.; public records generally, M.S.A., § 28.759 et seq.; uniform system of accounts, M.S.A., § 5.2073; annual financial report of city clerk, M.S.A., § 5.3188(10).

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### **ARTICLE I.**

#### **IN GENERAL**

##### **Sec. 2-1. Tax assessment day established.**

The 31st day of December shall be the tax day in the city. The taxable status of persons and real and personal property shall be determined as of the tax day.

**Sec. 2-2. Time for making tax assessment roll.**

The city assessor shall, on or before the first Monday in March, make and complete the assessment roll.

**State Law References:** Time to complete assessment roll, M.S.A., § 7.24.

**Sec. 2-3. Meetings of tax board of review.**

The board of review shall meet for the purpose of reviewing and correcting the assessment roll at a public place and at such hours as may be designated by the city council by resolution. The first session shall convene on the second Monday in March of each year and shall continue in session from day to day for the purpose of considering and correcting the roll for three (3) days, and as much longer as may be necessary. In such cases where the assessed value is increased or any property added to the roll by the board, the secretary shall, forthwith, give notice to the owners thereof according to the last assessment roll of the city by first class mail placed in the Midland Post Office not later than midnight of the Thursday following the first meeting of the board. The second session of the board shall convene on the third Monday in March of each year and shall continue in session for one (1) day and as much longer as may be necessary. The review of assessments shall be completed on or before the first Monday in April.

**Sec. 2-4. Precinct boundaries.**

Precinct boundaries shall be established from time to time. Ordinances establishing precinct boundaries are hereby saved from repeal, and no provision of this Code or of the ordinance adopting this Code shall be constructed as repealing such ordinances.

**Sec. 2-5. Reserved.**

**Editors Note:** Ord. No. 948, § 1, adopted June 18, 1979, repealed former § 2-5 which pertained to a tax exemption for elderly citizens in Green Hill housing development and was derived from Ord. No. 892, § 1, adopted Aug. 9, 1976.

**Secs. 2-6--2-13. Reserved.**

**ARTICLE II.**

**PURCHASES, CONTRACTS, SALES**

**Sec. 2-14. "Purchase, " "contracts" defined.**

For the purposes of this article, *purchases* and *contracts* are defined as materials, equipment or labor or combinations thereof made as a single commitment but do not include the regular personal services of city employees or charges for noncapital, public utility expenditures.

(Ord. No. 1198, § 1, 9-24-90; Ord. No. 1302, § 1, 9-26-94)

**Editors Note:** Ord. No. 1302, § 1, adopted September 26, 1994, renumbered former § 2-15 as a new § 2-14.

**Sec. 2-15. City manager's duty--Purchases, contracts under three thousand dollars.**

The city manager, subject to budgetary appropriations, is authorized to make purchases and contracts in an amount not to exceed three thousand dollars (\$3,000.00) without further approval of the city council. Such purchases or contracts may be made either with or without soliciting competitive prices, depending upon the judgment of the city manager.

(Ord. No. 938, § 1, 10-2-78; Ord. No. 1095, § 1, 9-9-85; Ord. No. 1198, § 1, 9-24-90; Ord. No. 1302, § 2, 9-26-94)

**Editors Note:** Ord. No. 1302, § 2, adopted September 26, 1994, renumbered form § 2-16 as a new § 2-15.

**Sec. 2-16. Same--Purchases, contracts between three thousand dollars and ten thousand dollars.**

The city manager, subject to budgetary appropriations, is authorized to make purchases and contracts in an amount estimated to exceed three thousand dollars (\$3,000.00) but not to exceed ten thousand dollars (\$10,000.00) without further approval of the city council. Such purchases or contracts shall require that the city manager solicit written price quotations. This provision shall not apply on purchases or contracts where, in the opinion of the city manager, written price quotations are impractical.

(Ord. No. 1302, § 3, 9-26-94)

**Sec. 2-17. Same--Purchase, contracts between ten thousand dollars and twenty thousand dollars.**

The city manager, subject to budgetary appropriations, is authorized to make purchases and contracts in an amount estimated to exceed ten thousand dollars (\$10,000.00) but not to exceed twenty thousand dollars (\$20,000.00) without further approval of the city council. Such purchases or contracts shall require that the city manager advertise for sealed proposals. This provision shall not apply on purchases or contracts where, in the opinion of the city manager, sealed proposals are impractical. (Ord. No. 1302, § 4, 9-26-94)

**Sec. 2-18. Same--Purchases, contracts above twenty thousand dollars.**

Purchases or contracts estimated to exceed twenty thousand dollars (\$20,000.00) shall require that the city manager advertise for sealed proposals. The award shall be made by official action of the city council. This provision shall not apply on purchases or contracts where, in the opinion of the city council as expressed by a four-fifths ( 4/5) vote, sealed proposals are impractical. (Ord. No. 1095, § 2, 9-9-85; Ord. No. 1198, § 1, 9-24-90; Ord. No. 1302, § 5, 9-26-94)

**Sec. 2-19. Securing professional services.**

No sealed proposals shall be required for purchases or contracts for professional services.

**Sec. 2-20. Purchases, contracts made with funds received as gifts.**

With the approval of the city council, purchases may be made or contracts awarded for the furnishing of material, equipment, labor, or a combination thereof involving the expenditure of funds received as gifts, and therefore not public funds, without the necessity of soliciting competitive quotations or sealed bids by the city.

**Sec. 2-21. When property may be sold.**

Whenever any city property, real or personal, is not needed for corporate or public purposes, such property may be sold.

**Sec. 2-22. Sale by city manager--Personal property valued under twenty thousand dollars.**

Personal property not exceeding twenty thousand dollars (\$20,000.00) may be sold for cash by the city manager after receiving competitive quotations therefor, for the best price obtainable unless it is determined by the city manager that competitive quotations are impractical or unwarranted, or may be traded to the vendor of new equipment replacing it. Personal property purchased in whole or in part for resale by the city is exempt from this section provided that city costs are fully recovered. (Ord. No. 971, § 1, 2-4-80; Ord. No. 1313, § 1, 2-27-95)

**Sec. 2-23. Same--Personal property valued in excess of twenty thousand dollars.**

The sale or trade of personal property with a value in excess of twenty thousand dollars (\$20,000.00) shall be determined by official action of the city council prior to advertising for sealed proposals. The sale or trade of personal property with a value in excess of twenty thousand dollars (\$20,000.00) shall be awarded by official action of the city council on the basis of sealed proposals unless, by a four-fifths ( 4/5) vote of the council, sealed proposals are deemed impractical or unwarranted. Personal property purchased in whole or in part for resale by the city is exempt from this section provided that city costs are fully recovered. (Ord. No. 971, § 1, 2-4-80; Ord. No. 988, § 1, 10-13-80; Ord. No. 1313, § 1, 2-27-95)

**Sec. 2-24. Sale of personal property at auction.**

In addition to the procedure set forth in this article for the sale of personal property, the council may authorize the sale of personal property at public auction.

**Sec. 2-25. Real property.**

Real property shall be sold or traded in the same manner as set forth in section 2-23 above, unless the council, by a four-fifths ( 4/5) vote, shall determine that it is clearly to the city's advantage to sell such property without competitive bid.

## **Sec. 2-26. Advertising for sealed proposals.**

In advertising for sealed proposals, at least one publication shall be made in the local paper. Such advertisement shall reserve the right of the city to reject any or all bids, or waive any irregularities therein.

## **Sec. 2-27. Vendor suspension.**

The purchasing agent, upon approval of the director of fiscal services, shall have the authority to suspend vendors whose performance of city contracts and purchase orders has been seriously deficient. Suspension shall include, but not be limited to, removal from the bidders list, nonconsideration of bids or quotes submitted, cancellation of awards and other procedures to prevent the suspended vendor from receiving city business.

The purchasing agent shall notify the vendor in writing of the vendor's suspension and the reason(s) thereof. The vendor may appeal the purchasing agent's decision to the city manager. The appeal must be made in writing and forwarded to the city manager within ten (10) business days of the written notification of suspension. If the vendor is not satisfied with the city manager's ruling, the vendor may submit a written appeal to the city council no later than four (4) weeks from the date of the city manager's ruling. City council shall not consider any appeals received after the expiration of the four week period.

The purchasing agent shall determine the suspension period, which shall not exceed one (1) year, and shall conduct a review of the situation that caused the suspension at the end of said period. The suspension period shall be included in the notice of suspension. A suspension may be lifted, modified or extended at the end of said period. If a remedy of the cause of suspension is implemented and determined acceptable to the purchasing agent prior to the end of said period, the purchasing agent shall forward a recommendation to the city manager to remove the vendor from the suspension list. The decision whether to remove the vendor from the suspension list shall be the sole discretion of the city manager and may not be appealed. A procedure for suspension of vendors, including a list of such business practices and deficiencies that may be considered as serious and cause for suspension, shall be created. Copies of this procedure and the list of vendors suspended shall be available through the purchasing office.  
(Ord. No. 1380, § 1, 6-2-97)

## **Secs. 2-28--2-36. Reserved.**

# **ARTICLE III.**

## **PERSONNEL RULES, REGULATIONS AND BENEFITS**

### **DIVISION 1.**

### **GENERALLY**

## **Sec. 2-37. Definitions.**

The following terms, when used in this article shall have the following meanings unless the context clearly requires otherwise: *Administrative officer* means the appointive authorities as established by the charter or by council resolution. *Competitive examination* signifies the process of determining the relative fitness of applicants for any positions subject to the provisions of this article, such examinations to include the consideration and rating of any test or tests held or other appropriate methods used to determine the relative fitness of applicants and such examinations to be used in preparing appropriate employment lists for all positions or classes of positions subject to the provisions of this article. *Eligible* means any person whose name is on a re-employment or employment list for a given class of position. *Employment list* means a list of the names of the persons arranged in the order of merit and fitness as provided in the rules established under this article, who have been found qualified through suitable examinations for employment in positions of a specified class. *Position* means any office or place of employment in the city classified service such that the duties and responsibilities appertaining thereto are exercised by one person. *Probationary period* means a trial working period as set forth in the rules which is made a part of the selective process, during which the work and conduct of the employee shall be noted by the department head or his authorized representative and reported upon to determine whether such employee merits regular employment. *Public hearing* means an opportunity for any citizen or party interested to appear and be heard at reasonable length on the subject involved after public notice of at least five (5) days. *Public notice* means publication by posting in a prominent place in the building in which the city offices are housed which will be accessible to the public during the business hours. *Re-employment list* means a list of names of persons arranged in the order provided by rules established under this article who have occupied positions in

the city classified service, who have been separated from the service and who are entitled to have their names certified to department heads, when vacancies in the class for which they are qualified are to be filled, ahead of those whose names are on the employment list for the class. *Service rating* means the evaluation of the efficiency and general worth of employees in positions subject to the provisions of this article, as determined by the department head or his authorized representative in the department in which the employee is working.

**Sec. 2-38. Department of personnel--Established.**

There is hereby established a department of personnel for the purpose of administering personnel matters.

**Sec. 2-39. Same--Composition.**

The department of personnel shall consist of:

- (1) The merit system board.
- (2) The director of personnel.
- (3) Other appropriate officers and employees.

**Sec. 2-40. City manager to serve as director of personnel.**

The executive officer of the personnel department shall be designated as director of personnel. The city manager shall be director of personnel, and may delegate such duties as the charter of the city may provide.

**Charter References:** City manager to serve as personnel director, § 8.2(n).

**Sec. 2-41. General duties of director of personnel.**

The director of personnel shall be the executive officer of the department of personnel and shall initiate and direct the administrative work. It shall be his duty:

- (1) To attend all regular and special meetings of the merit system board and to maintain a record of its official proceedings.
- (2) To prepare and recommend rules and regulations to the merit system board for carrying out the provisions of this article. These rules and regulations shall cover the following phases of the personnel program:
  - (a) Preparation, installation and maintenance of a duties classification plan based on a study of the duties and responsibilities of all positions in the city classified service.
  - (b) Establishment of procedures governing application for employment.
  - (c) Public announcement of vacancies and competitive examinations.
  - (d) Preparation of examinations and the development of other measures designed to assist in passing on the qualifications of applicants for appointment to or promotion in the city classified service.
  - (e) Conduct of examinations.
  - (f) Establishment of employment and re-employment lists containing the names of persons eligible for appointment to the city classified service.
  - (g) Certification and appointment of persons from eligible lists to fill vacancies in the city classified service.
  - (h) Provisions for a probationary or working test period prior to obtaining regular status under the merit system of personnel management.

- (i) Transfer of employees from one position to another either in the same department or in a different department.
- (j) Promotion from a position of lesser responsibility to one of greater responsibility.
- (k) Demotion from a position of greater responsibility to one of lesser responsibility.
- (l) Standardization of hours of work.
- (m) Attendance and leave regulations.
- (n) Establishment, installation and maintenance of a system of service ratings covering the performance of employees.
- (o) Establishment, installation and maintenance of a program of training courses for city employees.
- (p) Establishment, installation and maintenance of a welfare program for city employees.
- (q) Termination of employment due to lack of work or funds, suspension for disciplinary purposes, dismissals for just cause.
- (r) Resignations and deaths.
- (s) Certification for payrolls.
- (t) Preparation, installation and maintenance of records and forms needed for analyzing the personnel situation.
- (3) To administer such rules and regulations, to propose amendments thereto as the needs of the service may require.

**Sec. 2-42. Personnel clerk; appointment, duties.**

The director of personnel may appoint a personnel clerk to whom he may delegate the duty of acting in the capacity of a secretary and clerk for the merit system board. The clerk shall be the custodian of all personnel records and shall be the official upon or with whom all notices, requests for hearings, complaints or other official documents shall be served or filed. The duties of the office of personnel clerk may be combined with those of any other office in the event the work involved does not warrant, in the discretion of the director of personnel the creation of a special position.

**Sec. 2-43. Preparation of salary schedule plan.**

The director of personnel shall prepare or cause to be prepared a salary schedule plan for the positions in the city service, together with regulations for the administration of such plan. This suggested plan shall be submitted by the director of personnel to the city council for approval and shall, when adopted, constitute the official salary schedule plan for positions in the city service.

**Sec. 2-44. Appropriations.**

The city council shall make adequate provisions for finances to enable the department of personnel to properly carry out the purposes of this article. Appropriations thus made available shall be subject to administration by the city manager.

**Secs. 2-45--2-50. Reserved.**

**DIVISION 2.**

**MERIT SYSTEM BOARD**

**Sec. 2-51. Created; qualifications; appointment.**

A merit system board is hereby created. Such board shall consist of three (3) members, who shall be appointed by the city

council. All members shall believe in the merit system for city employment.  
(Ord. No. 851, § 1, 2-3-75)

**Sec. 2-52. Term of office.**

Members of the merit system board shall hold office for a term of three (3) years, or until a successor is appointed and has qualified.

**Sec. 2-53. Members to serve without compensation.**

All members of the merit system board shall serve without compensation.

**Sec. 2-54. Political participation.**

Members of the merit system board shall not hold any other public office or serve on any political committee or take part in the management of any political campaign.

**Sec. 2-55. Internal organization; quorum.**

The merit system board shall, at its organizational meeting, elect a chairman who shall serve for a one-year term. Two (2) members of the board shall constitute a quorum for the transaction of business. The merit system board shall determine its order of business for the conduct of its meetings.

**Sec. 2-56. Filling vacancies.**

Vacancies occurring in the merit system board shall be filled in the same manner as regular appointments for the unexpired term of office.

**Sec. 2-57. Removal of members.**

The city council may remove any member of the merit system board for malfeasance, misfeasance, removal from city, mental incompetency, physical disability, or other good cause, by an affirmative vote of three (3) members of the city council.

**Sec. 2-58. Duties.**

The merit system board shall have general supervision over the problems of administrative policy involved in the personnel matters prescribed in this article, and except for the purpose of inquiry, the merit system board and its members shall deal with the specified technical problems of administration solely through the director of personnel. It shall be the duty of the merit system board:

- (a) To recommend to the city council, through the director of personnel, such rules and regulations as it may deem necessary for the administration of this article. No rule or any amendment or repeal thereof shall be effective until approved by the city council.
- (b) To make investigations and recommendations either on complaint or on its own motion, concerning any matters touching the administration of this article.
- (c) To sit as a body to hear appeals of any person in the city classified service relative to any proceedings or situation having a bearing on his employment status or conditions of employment under the provisions of this article.
- (d) To make an annual report to the city council on the activities of the merit system board, together with recommendations concerning personnel policies.
- (e) To consider such other matters as may be referred to the board by the director of personnel, or by the city council.

**Sec. 2-59. City to cooperate with, furnish facilities for, merit system board.**

The merit system board shall be provided with suitable quarters. All administrative officers of the city, during usual business hours, shall grant to the members of the board, the director of personnel and any employee of the merit system board designated by it or him free access to premises and records under their control and shall furnish him or them such facilities, assistance and information as he or they may require in carrying out his or their function.

**Secs. 2-60--2-65. Reserved.**

### **DIVISION 3.**

#### **PERSONNEL POLICIES, RULES AND REGULATIONS**

**Sec. 2-66. Merit system to be divided into two services.**

The merit system of the city shall be divided into an unclassified service and a classified service.

**Charter References:** Persons declared city employees, § 3.5.

**Sec. 2-67. Unclassified service.**

The unclassified service of the city shall consist of the following:

- (a) City manager.
- (b) Administrative officers.
- (c) Officers elected by popular vote and persons appointed to fill vacancies in such elective offices.
- (d) Members of appointive commissions or boards.
- (e) City attorney and assistant city attorneys.
- (f) Members of boards and commissions required by law to be appointed by the city council.
- (g) Employees whose positions are funded fifty (50) per cent or more by state or federal grants.
- (h) Temporary seasonal employees.
- (i) Co-ops, interns involved in training programs.

(Ord. No. 779, § 1, 7-6-71; Ord. No. 853, § 1, 2-3-75; Ord. No. 961, § 1, 10-15-79)

**Sec. 2-68. Classified service.**

The classified service of the city shall consist of the following:

- (a) All persons holding offices and employment other than the offices set forth in section 2-67.
- (b) In addition thereto, unskilled laborers for hire from time to time at an hourly wage shall be a part of the classified service for the following purposes only:
  - (1) For physical fitness.
  - (2) Records of those so employed shall be kept and a preference given to those heretofore employed, insofar as same is practical.

**Sec. 2-69. Emergency appointments.**

If necessary to prevent the stoppage of public business or inconvenience to the public, but not otherwise, temporary



appointments may be made by the director of personnel of persons not on the eligible list, provided that no eligible list has been prepared for the position, or that those on the eligible list are not immediately available, or during the suspension of an employee, or pending final action on proceedings to review a suspension demotion or dismissal of an employee. Such temporary appointment shall not continue for a longer period than six (6) months, and no person shall be eligible to serve as a temporary appointee in any one or more positions for more than an aggregate period of six (6) months in any fiscal year. No credit shall be allowed in the giving of examinations for service rendered under a temporary appointment.

**Sec. 2-70. Physical standards, examination.**

All applicants for positions in the classified service of the city shall meet physical standards to be set by the merit system board. In the case of candidates taking original assembled or nonassembled examinations, such fitness shall be determined by means of medical examinations to be given by a medical doctor designated by the personnel director. Medical examination may be required of candidates taking promotional examinations when deemed advisable by the board.

**Sec. 2-71. Abuses and frauds prohibited.**

No person shall deceive or obstruct any person in respect to his or her right to participate in examinations under the provisions of this article, or falsely mark, grade, estimate or report upon the examination or standing of any person tested thereunder, or aid in so doing, or furnish to any person, except in answer to inquiries of the merit system board, any special information for the purpose of either improving or injuring the rating of any such person for appointment.

No applicant shall deceive the board for the purpose of improving his chances or prospects for appointment.

No person shall solicit, orally or by letter, and no public officer or employee shall receive or be in any manner concerned in the receiving or soliciting of any money or valuable thing from any officer or employee holding a position in the classified service for any political purpose.

No person shall use or promise to use his influence or official authority to secure any appointment or prospect of appointment to any position classified under this article as a reward for personal or partisan political service.

No public officer or employee shall by means of threats or coercion induce or attempt to induce any person holding a position in the classified service to resign his position or to take a leave of absence from duties or to waive any of his rights under this article.

**Sec. 2-72. Merit system board records to be confidential.**

All personnel records and forms, including roster cards showing the complete employment history of each officer and employee, and other required personnel records, shall be deemed confidential, and shall not be open to general public inspection.

**Sec. 2-73. Merit system rules--To incorporate principle of merit and fitness.**

The rules submitted by the merit system board shall be prepared so that the decisions on personnel matters shall be made solely on the basis of merit and fitness of the individual, and the various practices and procedures established thereunder which are to govern these decisions shall incorporate established professional standards and techniques which will serve to further that end.

**Sec. 2-74. Same--Seniority, efficiency rules, regulations.**

The merit system board shall make all necessary and proper rules and regulations in regard to rating of seniority and rating of efficiency.

**Sec. 2-75. Promotion policy.**

Insofar as practical and consistent with the best interests of the service, all vacancies in a higher position in the classified service shall be filled by promotion from within the classified service.

**Sec. 2-76. Political, religious, racial discrimination prohibited.**

No person in the city classified service or seeking admission thereto shall be appointed, demoted, or removed or be in any way favored or discriminated against because of race or national origin, or his political or religious opinions or affiliations.

**Sec. 2-77. Political activity.**

No person holding a position in the city classified service shall directly or indirectly use or seek to use his authority or official influence to control or modify the political action of any person, or during the hours of duty engage in any form of political activity nor at any other time take such part in political activities or political campaigns as to impair his usefulness in the position in which he is employed. Nothing in this section, however, shall be construed as prohibiting or preventing any such officer or employee from taking a legitimate interest as a citizen in his government or in casting his vote for the person of his choice.

**Sec. 2-78. Classified employee to be removed, discharged or reduced only for cause; merit system board to establish rules.**

No person or employee holding an office or position classified and graded under the classified service shall be removed, discharged or reduced except for just cause, which shall not include political or religious opinions or affiliations or race or national origin. The merit system board shall set forth in its rules such specific causes for removal, discharge or reduction as shall constitute just cause, provided, that the enumeration of such causes in the rules shall not be exclusive, nor prevent removal, discharge or reduction for other just causes shown to be detrimental to the service. Nothing in this section shall prevent the removal, layoff or reduction in classification of a classified employee in connection with a reduction in work force and the merit system rules shall provide for removal, layoff and recall in such cases.

(Ord. No. 853, § 2, 2-3-75)

**Sec. 2-79. Procedure upon removal, discharge, reduction in position--Reasons for discharge to be furnished.**

A person in the classified service who is removed, discharged or reduced in position shall be furnished by the administrative officer making the removal, discharge or reduction, with the reasons, in writing, for such action, and the effective date thereof. A copy of the same shall be immediately filed with the merit system board.

**Sec. 2-80. Same--Notice of appeal; setting hearing.**

Within ten (10) days after the effective date of any removal, discharge or reduction of any classified city employee, an appeal may be made to the merit system board in writing, by the employee so removed, discharged or reduced. The board, on receiving such notice of appeal, shall set a hearing of the reasons for removal, discharge or reduction, which date shall not be more than twenty (20) days after the effective date of removal, discharge or reduction. Notice of the time and place of such hearing shall be served personally or by registered mail upon the employee appealing, at least five (5) days before the date of hearing. Notice shall also be given the administrative officer making the removal, discharge or reduction.

**Sec. 2-81. Same--Hearing on appeal.**

The merit system board shall conduct the hearing of the appeal filed pursuant to section 2-80 at the time set, and may adjourn such hearing from time to time upon cause shown or upon its own motion, provided that such adjournments shall not exceed sixty (60) days from the effective date of removal, discharge or reduction.

The employee appealing shall have full opportunity to be heard and may be represented by counsel.

In the course of a hearing as herein provided for, any member of the board shall have the power to administer oaths and shall have the power to secure by subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such hearing. All evidence may, at the discretion of the board, be taken and transcribed.

**Sec. 2-82. Same--Post hearing procedure.**

The merit system board shall spread in its official minutes the facts contained in any appeal from a discharge, removal, or reduction, its findings of facts resulting from the hearing thereof, and its recommendation concerning the disposition of the appeal. It shall transmit a duplicate of such minutes entry for filing with the city clerk for his records and shall also transmit a duplicate to the city manager.

The city manager shall, within ten (10) days therefrom, submit in writing his decision concerning the disposition of the appeal for filing with the city clerk, a copy of which he shall send to the merit system board.

If, as a result of the appeal, the merit system board finds that the employee has been discriminated against either in the original action or in the final decision by the city manager, because of any belief or associations, either religious or political, or on account of race or national origin, then the merit system board shall have the power to reinstate the employee to his original status held prior to the action necessitating the appeal. In all other cases the decision of the city manager shall be final.

**Secs. 2-83, 2-84. Reserved.**

#### **DIVISION 4.**

#### **POLICE AND FIRE RETIREMENT SYSTEM**

**Sec. 2-85. Statement of purpose.**

In accordance with the favorable vote by the electorate of the City of Midland on November 8, 1966, the Fire Fighters and Police Officers Retirement Act, being Act No. 345 of the Public Acts of Michigan of 1937, as amended, hereinafter referred to as the "act", is adopted as the City of Midland Police and Fire Fighter Retirement System. Said system shall hereafter be known as "The City of Midland Police and Fire Fighter Retirement System".  
(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-86. Conformity with applicable bargaining agreements.**

The City of Midland Police and Fire Fighter Retirement System is hereby amended to the extent necessary to conform to the pension provisions provided in the existing applicable bargaining agreements and those agreements hereafter approved by the city council.  
(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-87. Retirement board created.**

A retirement board, to be known as the Police and Fire Retirement Board, is hereby created. There shall be five members of the Police and Fire Retirement Board, whose membership shall consist of the following:

- (1) The treasurer of the City of Midland;
- (2) One (1) active member of the fire department elected by a majority vote of the members of the fire department;
- (3) One (1) active member of the police department elected by a majority vote of the members of the police department;  
and
- (4) Two (2) additional members who shall be appointed by the city manager.

(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-88. Terms of office.**

The terms of office for the members of the Police and Fire Retirement Board are as follows:

- (1) The treasurer of the city shall serve throughout his or her term of office;
- (2) The police and fire representatives shall each serve a four year term. However, in the event that the member is no longer an active employee of his or her respective department, that member's term shall automatically expire and a new member shall be elected as provided herein.
- (3) The members appointed by the city manager shall serve at the will of the city manager.

(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-89. Duties.**

The retirement board shall:

- (1) Make all rules and regulations necessary to insure the proper conduct of the business of the City of Midland Police and Fire Fighter Retirement System.
- (2) Retain such legal, medical, actuarial, clerical or other services as may be necessary for the conduct of the affairs of the system.
- (3) Cause such amounts as may be set forth in the act and the police and fire agreements to be deducted from the salaries of active members of the system and paid into the treasury of the system.
- (4) Certify to the city council of the City of Midland the amount to be contributed by the city as provided for under the act.
- (5) Cause the examination of every disability pensioner or beneficiary under the age of fifty-five (55) years to be made at least once a year for the first five (5) years following his or her retirement, and at least once every three (3) years thereafter, until he or she reaches age fifty-five (55).
- (6) Meet at least once per month. Records of all board meetings shall be kept and all meetings shall be open to the public.
- (7) Annually elect board officers as follows: one (1) member to be president, one (1) member to be vice-president, and one (1) member to be secretary.
- (8) Disburse the pensions and other benefits payable under the act.

(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-90. Members to serve without compensation.**

No member of the board shall receive any compensation for his or her services as a board member.

(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-91. Pension provisions.**

All pension provisions under the act and those included in contracts between the City of Midland and City of Midland Police and Fire departments shall be followed. In the event that a provision of the act conflicts with a provision contained in a contract, the contract provision shall be controlling.

(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-92. Pension benefits applicable to chief and captain positions.**

The City of Midland Police and Fire Fighter Retirement System is hereby amended to provide post retirement pension adjustments for members who retire from the position of police chief, police captain and fire chief on or after the effective date of this division as follows:

- (1) A member who is the police chief or police captain shall have his/her retirement benefits adjusted, as of the day following his/her effective retirement date, so that he/she shall receive pension benefits pursuant to the police command collective bargaining agreement.
- (2) A member who is the fire chief shall have his/her retirement benefits adjusted, as of the day following his/her effective retirement date, so that he/she shall receive pension benefits pursuant to the fire fighters collective bargaining agreement.

(Ord. No. 1423, § 1, 7-20-98)

**Sec. 2-93. Severability.**

In the event any portion, section or subsection of this division shall be held invalid, that portion, section or subsection shall be eliminated from this division. Such invalidation shall not be construed to affect the validity of any other part or portion of this division or of this Code.

(Ord. No. 1423, § 1, 7-20-98)

**ARTICLE IV.**

**MUNICIPAL PLANNING COMMISSION\***

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\* **Charter References:** Council to maintain city planning commission; powers and duties of same, § 5.12; advisory commissions generally, § 5.13.

**Cross References:** *Subdivisions, Ch. 23.*

**State Law References:** M.S.A., § 5.2991 et seq.

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**Sec. 2-94. Creation of municipal planning commission.**

The municipal planning commission is hereby created.

**State Law References:** *See M.S.A. § 5.2992.*

**Sec. 2-95. Composition; appointment.**

The commission shall consist of nine (9) members, who shall be appointed by the city council. One (1) person may be a member of the zoning board of appeals, and one (1) person may be a member of the city council.

(Ord. No. 1052, § 1, 7-25-83)

**Cross References:** Zoning board of appeals membership, § 2-130.

**Sec. 2-96. Terms of office.**

The terms of the members of the commission who represent the zoning board of appeals and the city council shall correspond to their tenure as a member of the zoning board of appeals and the city council respectively. The terms of the remaining members shall be three (3) years from July 1, 1947, or until a successor shall take office, except that the respective terms of three (3) of the members first appointed shall be for three (3) years, three (3) for two (2) years, and one for one year.

**Sec. 2-97. Holding other municipal offices.**

Members of the commission shall hold no other municipal office, except as set forth in this article.

**Sec. 2-98. Members to serve without compensation.**

All members of the commission shall serve without compensation.

**Sec. 2-99. Removal of members.**

Members of the commission may, after public hearing, be removed by the city council for inefficiency, neglect of duty, or malfeasance in office.

**Sec. 2-100. Filling vacancies.**

Vacancies in the commission occurring otherwise than through the expiration of term shall be filled for the unexpired term by the council.

**Sec. 2-101. Chairman, meetings, rules, records.**

The commission shall elect its chairman from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be one year, with eligibility for re-election. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

**State Law References:** See M.S.A., § 5.2994.

**Sec. 2-102. Source, limit on expenditures.**

The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council, which shall provide the funds, equipment, and accommodations necessary for the commission's work.

**Sec. 2-103. Master plan for physical development of municipality--Adoption, contents, publication, alteration.**

It shall be the function and duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the commission's judgment, bear relation to the planning of the municipality. The plan, with the accompanying maps, plats, charts, and descriptive matter shall show the commission's recommendations for the development of such territory, including, among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, flood plains, water fronts, boulevards, parkways, playgrounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purpose; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; the general location, character, layout and extent of community centers and neighborhood units; and the general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas; as well as a zoning plan for the control of the height, area, bulk, location and use of buildings and premises. As the work of making the whole master plan progresses, the commission may from time to time adopt and publish a part to cover one or more major sections or divisions of the municipality or one or more of the aforesaid or other functional matters to be included in the plan. The commission may from time to time amend, extend or add to the plan.

**State Law References:** See M.S.A., § 5.2996.

**Sec. 2-104. Same--Surveys for basis, purpose.**

In the preparation of the plan, the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

**State Law References:** See M.S.A., § 5.2997.

**Sec. 2-105. Same--Adoption of whole or parts by resolution of planning commission, hearing, notice, certificates to council and register of deeds.**

The commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the municipality or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given, not less than fifteen (15) days prior to such hearing, by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality, and by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the geographical sections or divisions of the municipality affected. The adoption of the plan or of any such part or amendment or extension or addition shall be by resolution of the commission carried by the affirmative votes of not less than six (6) members of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the

chairman and/or secretary of the commission. An attested copy of the plan or part thereof shall be certified to council and to the county register of deeds.

**State Law References:** See M.S.A., § 5.2998.

**Sec. 2-106. Public works; approval by commission and council; plans for future.**

Whenever the commission shall have adopted the master plan of the municipality or of one or more major sections or districts thereof, no street, square, park, or other public way, ground, or open space, or public building or structure, shall be constructed or authorized in the municipality or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the commission. In case of disapproval the commission shall communicate its reasons to council, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds ( 2/3) of its entire membership. However, if the public way, ground, space, building, structure, or utility be one the authorization or financing of which does not under the law or charter provisions governing same, fall within the province of the municipal council, then the submission to the planning commission shall be by the board, commission, or body having such jurisdiction, and the planning commission's disapproval may be overruled by such board, commission or body by a vote of not less than two-thirds ( 2/3) of its membership. The failure of the commission to act within sixty (60) days from and after the date of official submission to the commission shall be deemed approval. For the purpose of furthering the desirable future development of the municipality under the master plan, the city planning commission, after the commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements.

**State Law References:** See M.S.A., § 5.2999.

**Sec. 2-107. Same--Rescission of action by legislative body, procedure.**

Whenever the council shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the council shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, playfield or other public open space, such resolution shall not be rescinded until after the matter has been referred back to the city planning commission for a report and until after a public hearing shall have been held. The council shall have power to overrule the recommendation of the commission by a vote of not less than two-thirds ( 2/3) of its entire membership.

**State Law References:** See M.S.A., § 5.3000.

**Sec. 2-108. Publicity and education.**

The commission shall have the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine.

The commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof.

It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and with citizens with relation to the protecting or carrying out the law.

**State Law References:** See M.S.A., § 5.3001.

**Sec. 2-109. Acceptance of gifts.**

The municipal planning commission shall have the right to accept and use gifts for the exercise of its functions.

**Sec. 2-110. Information collection; entry on land.**

All public officials shall, upon request, furnish to the commission, within a reasonable time, such available information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments, and marks thereon.

**Sec. 2-111. General powers of commission.**

In general, the municipal planning commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this article.

#### **Sec. 2-112. Planning commission to approve plats.**

Whenever the planning commission shall have adopted that sort of a master plan relating to the major street system of the territory within its subdivision jurisdiction or part thereof, and shall have filed a certified copy of such plan in the office of the county register of deeds of the county, in which such territory or part is located, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by the planning commission and such approval entered in writing on the plat by the chairman or secretary of the commission.

**State Law References:** See M.S.A., § 5.3003.

#### **Sec. 2-113. Regulations governing subdivision of lands; bond to secure improvements.**

Before exercising the powers referred to in section 2-112 the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots.

Such regulations may include provisions as to the extent to which streets and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for a tentative approval of the plat previous to such installation; but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat the commission may accept a bond with surety to secure to the municipality the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission. The municipality is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies.

**Cross References:** *Subdivision, Ch. 23.*

**State Law References:** See M.S.A., § 5.3004.

#### **Sec. 2-114. Subdivision regulations.**

All subdivision regulations shall be published as provided by law for the publication of ordinances, and before adoption, a public hearing shall be held thereon. A copy of such regulations shall be certified by the planning commission to the recorders of the counties in which the municipality and territory are located.

#### **Sec. 2-115. Approval or disapproval of plats; procedure; effect.**

The planning commission shall approve, modify or disapprove a plat within sixty (60) days after the submission thereof to it; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand. However, the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent; and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered mail of the time and place of such hearing not less than five (5) days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the county auditor's office and their addresses appear in the directory of the municipality or on the tax records of the municipality or county. Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or affect an acceptance by the public of any street or other open space shown upon the plat. The planning commission may, from time to time, recommend to council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulations of the territory comprised within approval subdivisions. The commission shall have power to agree with the applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then effective zoning ordinance of the municipality. Such requirements or restrictions shall be stated upon that plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the municipality.

**Cross References:** Approval of plats, § 23-25 et seq.

**State Law References:** See M.S.A., § 5.3005.



**Sec. 2-116. Succession to zoning commission.**

The commission shall have all powers granted by law to the zoning commission of the municipality, and, from and after the creation of a planning commission in such municipality, all powers and records of the zoning commission shall be transferred to the planning commission, however, that in the event that the existing zoning commission shall be nearing the completion of its zoning plan, the council, may, by resolution, postpone the transfer of the zoning commission's powers until the completion of such zoning plan, but such postponements shall not exceed a period of one year.

**State Law References:** See M.S.A., § 5.3002.

**Secs. 2-117--2-129. Reserved.**

**ARTICLE V.**

**ZONING BOARD OF APPEALS\***

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\* **Editors Note:** For additional provisions relative to the zoning board of appeals, see Art. XXXIV of the city's zoning ordinance, being Ord. No. 727 as amended, which is on file in the office of the city clerk.

**State Law References:** See M.S.A., § 5.2935(a).

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**Sec. 2-130. Membership; qualifications; appointment.**

The zoning board of appeals shall consist of five (5) members who shall be appointed by the city council. The city council may also appoint not more than two (2) alternate members to act in accordance with procedures specified in the City of Midland zoning ordinance.

(Ord. No. 851, § 2, 2-3-75; Ord. No. 867, § 1, 8-11-75; Ord. No. 1036, § 1, 2-21-83)

**Editors Note:** In conjunction with § 2-130, see also § 34.1 of the city's zoning ordinance, Ord. No. 727, which is on file in the office of the city clerk.

**Sec. 2-131. Terms of office.**

The terms of office for members of the zoning board of appeals shall be three (3) years from July 1, 1949, or until the successor to any member shall take office, except that for the fiscal year of the city beginning July 1, 1983, the terms of the members shall be adjusted so that the term of one (1) of the members shall expire on June 30, 1984, the terms of two (2) of the members shall expire on June 30, 1985, and the terms of two (2) of the members shall expire on June 30, 1986. In the event any alternate members to the zoning board of appeals are appointed as provided in section 2-130, they shall be appointed for regular three-year terms.

(Ord. No. 1036, § 2, 2-21-83)

**Sec. 2-132. Members to serve without compensation.**

Members of the zoning board of appeals shall serve without compensation.

**Sec. 2-133. Removal from office.**

Members of the zoning board of appeals may, after public hearing, be removed by the city council for inefficiency, neglect of duty or malfeasance in office.

**Sec. 2-134. Filling vacancies.**

Vacancies in the zoning board of appeals occurring otherwise than through the expiration of a term shall be filled for the unexpired term by the council.

**Sec. 2-135. Organization, procedure, jurisdiction, duties and powers.**

The organization, procedure, jurisdiction, duties and powers of the board of appeals shall be provided in the Zoning Ordinance of the City of Midland.

**Editors Note:** *Ordinance No. 727*, the city zoning ordinance, is on file in the office of the city clerk.

**Secs. 2-136--2-145. Reserved.**

## **ARTICLE VI.**

### **HOUSING COMMISSION\***

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\* **Charter References:** Advisory commissions generally, § 5.13.  
**Cross References:** Buildings and building regulations, Ch. 5; housing code, Ch. 12.  
**State Law References:** See M.S.A., § 5.3011 et seq.

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#### **Sec. 2-146. Housing commission created.**

Pursuant to Public Act 18 of the Extra Session of 1933, as amended, there is hereby created in and for the city a commission to be known as the Midland Housing Commission.

**State Law References:** See M.S.A., § 5.3011 et seq.

#### **Sec. 2-147. Statutory powers of commission.**

The Midland Housing Commission shall, in addition to those powers and duties set forth in this article, have all the powers and duties vested or permitted to be vested in housing commissions by Public Act 18 of the Extra Session of 1933, as amended, and any laws enacted which are supplemental thereto, it being the intention of this article to vest in the Midland Housing Commission all powers and duties permitted or required by law.

#### **Sec. 2-148. Membership; appointment of members; term of office.**

The housing commission shall consist of five (5) members to be appointed by the city manager. The term of office of members of the housing commission shall be five (5) years. Members of the first housing commission shall be appointed for the terms of one year, two (2) years, three (3) years, four (4) years and five (5) years, respectively, and annually thereafter one member shall be appointed for the term of five (5) years.

**State Law References:** See M.S.A., § 5.3014.

#### **Sec. 2-149. Members to serve without compensation.**

Members of the housing commission shall serve without compensation.

#### **Sec. 2-150. Removal from office.**

Members of the housing commission may be removed from office by the city manager.

#### **Sec. 2-151. Appointments for unexpired terms.**

Any vacancy in office in the housing commission shall be filled by the city manager for the remainder of the unexpired term.

#### **Sec. 2-152. Meetings; rules of procedure; records; quorum; officers.**

The housing commission shall meet at regular intervals, such meetings to be public. It shall adopt its own rules of procedure, and shall keep a record of the proceedings. Three (3) members shall constitute a quorum for the transaction of business. A president and vice-president shall be elected by the housing commission.

**State Law References:** See M.S.A., § 5.3015.

#### **Sec. 2-153. Appointment of director of commission, other employees.**

The housing commission may appoint a director, who may also serve as secretary, and, in accordance with the provisions of

the charter and Code provisions relative to a merit system of personnel management, such other employees as it may deem necessary.

**Sec. 2-154. Establishing duties, compensation of officers, employees.**

The housing commission shall prescribe the duties of all of its officers and employees and may, with the approval of the city manager, fix their compensation.

**Sec. 2-155. Operating funds.**

Funds for the operation of the housing commission may be provided by the city council, but the housing commission shall, as soon as possible, reimburse the city for all money expended by it for the housing commission, from revenues received from the sale of bonds.

**State Law References:** See M.S.A., § 5.3016.

**Sec. 2-156. Powers and duties.**

The housing commission shall have the following enumerated powers and duties:

(a) To determine in what areas of the city it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals or welfare.

(b) To purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest therein, or acquire the same by gift, bequest or under the power of eminent domain; to own, hold, clear and improve property; to engage in or to contract for the design and construction, reconstruction, alteration, improvement, extension or repair of any housing project or part thereof; to lease or operate any housing project.

(c) To control and supervise all parks and playgrounds forming a part of such housing development, but may contract with existing departments of the city for operation or maintenance of either or both.

(d) To establish and revise rents of any housing project, but shall rent all property for such sums as will make them self-supporting, include all charges for maintenance and operation, for principal and interest on loans and bonds and for taxes.

(e) To rent only to such tenants as are unable to pay for more expensive housing accommodations.

(f) To call upon other departments for assistance in performance of its duties, but such departments shall be reimbursed for any added expense incurred therefor.

(g) It shall have such other powers relating to such housing facilities project as may be prescribed by ordinance or resolution of the city council or as may be necessary to carry out the purposes of this article.

**State Law References:** See M.S.A., § 5.3017.

**Sec. 2-157. Conflicts of interest.**

No member of the housing commission or any of its officers or employees shall have any interest directly or indirectly in any contract for property, materials or services to be acquired by the housing commission.

**State Law References:** See M.S.A., § 5.3018.

**Sec. 2-158. Reports to city council.**

The housing commission shall make an annual report of its activities to the city council, and shall make such other reports as the city council may from time to time require.

**State Law References:** See M.S.A., § 5.3019.

**Sec. 2-159. Eminent domain; projects declared for public purposes.**

The housing commission may recommend to the city council the institution and prosecution of proceedings under the power

of eminent domain in accordance with the state law and the provisions of the city charter relative to condemnation. Housing projects contemplated by this article are hereby declared to be for public purposes within the meaning of the constitution, state laws and charter relative to the power of eminent domain.

**State Law References:** See M.S.A., § 5.3020.

**Sec. 2-160. Slum clearance and housing projects declared to be for public purposes.**

Slum clearance and housing projects contemplated by this article are hereby declared to be for public purposes within the meaning of the constitution, state laws and charter relative to the powers of the city.

**Sec. 2-161. Deeds, contracts, leases and purchases.**

All deeds, contracts, leases or purchases entered into by the housing commission shall be in the name of the city and shall be approved by the city council. Contracts for the purchase of necessary materials, leases with tenants, and options need not be so approved.

**State Law References:** See M.S.A., § 5.3021.

**Sec. 2-162. Commission to have control of housing projects; purchases not required to be made through purchasing department.**

The housing commission shall have complete control of the entire housing project, including the construction, maintenance and operation as fully and completely as if the housing commission represented private owners. Contracts for construction or purchase of materials entered into by the housing commission shall not be required to be made through the city purchasing department.

**State Law References:** See M.S.A., § 5.3022.

**Sec. 2-163. Claims.**

All claims that may arise in connection with the housing projects shall be presented as are ordinary claims against the city; provided, that written notice of all claims based upon injury to persons or property must be served upon the city clerk within sixty (60) days from the happening of the injury, but the disposition thereof shall rest in the discretion of the housing commission, and the cost of investigation, attorneys' fees, all claims that may be allowed and final judgments obtained from such claims shall be paid only from the operating revenue of the housing project.

**State Law References:** See M.S.A., § 5.3023.

**Sec. 2-164. Notes, bonds and other obligations or claims not debts or charges against city or members of commission.**

The notes, bonds, or other obligations or any claims of whatever nature against the housing project shall not be debts or charges against the city, nor against any member of the housing commission, and no individual liability shall attach for any official act done by any member of such housing commission.

**State Law References:** See M.S.A., § 5.3024.

**Sec. 2-165. Estimate of costs prior to purchase, improvements, operation, etc.**

Whenever the housing commission shall determine to purchase, acquire, construct, improve, enlarge, extend, operate or repair any housing facility, it shall first cause an estimate to be made of the cost thereof, and the fact that such estimate has been made and the amount thereof shall appear in the ordinance authorizing and providing for the issuance of the bonds.

**State Law References:** See M.S.A., § 5.3025.

**Sec. 2-166. Free services, etc., prohibited.**

No free services or rental shall be furnished by any housing project to the city of any state agency or to any agency, instrumentality or person.

**State Law References:** See M.S.A., § 5.3035.

**Sec. 2-167. Management of projects generally; minimum revenue to be produced by rentals.**

The housing commission shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rental for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations. The housing commission shall not construct or operate any such project for profit. To this end, the commission shall fix the rentals for dwellings in projects at no higher rates than it shall find to be necessary in order to produce revenues which, together with all other money, revenue, income and receipts from whatever sources derived available for such purposes, will be sufficient (a) to pay, as the same becomes due, the principal and interest on the bonds issued for such projects; (b) to meet the cost of, and to provide for, administration, operation and maintenance of the projects, including the cost of any insurance on the projects or on bonds issued therefor; (c) to create, during not less than the six (6) years immediately succeeding its issuance of any bonds, a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve; and (d) (1) to make payments in lieu of taxes of at least five per cent (5%) of the shelter rentals of the project for any one year, which sum shall be paid to the city and other taxing units in proportion to the amount of taxes received for such unit in the year previous to the acquiring of the site for any housing project or (2) to pay to the city and other taxing units a sum annually in lieu of taxes equal to the amount of taxes received, prior to the acquiring of any such project site, from the assessment previously levied against such site.

**State Law References:** See M.S.A., § 5.3037.

#### **Sec. 2-168. Records and accounts.**

The housing commission shall install, maintain and keep proper books of record and account, separate entirely from other records and accounts of the city, in which full and accurate entries shall be made of all dealings or transactions of, or in relation to the properties, business and affairs of the project. The housing commission, not later than three (3) months after the close of any fiscal year, shall cause to be prepared a balance sheet and an income and surplus account, showing respectively, in reasonable detail, the financial condition of the project at the close of such preceding calendar, operating or fiscal year and the financial operations thereof during such year. Such balance sheets and income and surplus accounts shall, at all reasonable times during usual business hours, be open to examination and inspection by any taxpayer, renter of the property of the project or any holder or owner of bonds issued under the provisions of this article and Act No. 18 of the Public Acts of 1933, First Special Session, or anyone acting for or on behalf of such taxpayer, renter or bondholder.

**State Law References:** See M.S.A., § 3.3045.

#### **Sec. 2-169. Regulations as to rentals and tenant selection.**

In the operation or management of housing projects, the housing commission shall at all times observe the following duties with respect to rentals and tenant selection:

- (a) It may rent or lease the dwelling accommodations therein only to persons of low income.
- (b) It may rent or lease the dwelling accommodations therein only at rentals within the financial reach of such persons of low income.
- (c) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.
- (d) It shall not accept any person as a tenant in any housing project if the persons who would occupy the dwelling accommodations have an aggregate annual net income in excess of any maximum allowed by the federal government pursuant to federal law or regulation in any contract for financial assistance.

- (e) It shall prohibit subletting by tenants.

**State Law References:** See M.S.A., § 5.3054.

#### **Sec. 2-170. Commission may designate certain persons to execute tenant leases for commission.**

The housing commission may designate their housing managers, assistant housing managers, the superintendent and assistant superintendent of housing operations to execute tenant leases for the commission.

#### **Sec. 2-171. Liberal construction of article.**

This article, being necessary for and to secure the public peace, health, safety, convenience and welfare of the city and the people of the city, shall be liberally construed to effect the purposes thereof.

**State Law References:** *See M.S.A. § 3050.*

**Sec. 2-172. Washington Woods area established as site for housing for the elderly.**

The following described property, now owned by the City of Midland and held for municipal uses, is hereby established as a site for housing for the elderly:

Beginning 40 feet west of the northeast corner of southeast 1/4 of northwest 1/4 of Section 15, T14N R2E; south to point 795 feet north of east-west 1/4 line; W 741.57 feet, 50°-23' W 44.64 feet; N 38°-37' west to north 1/8 line; east to beginning,

Except south 30 feet, and also except that portion lying southwesterly of a line lying 60 feet northeasterly of and parallel with a line described as beginning 495.45 feet south 38°-37' E from intersection of northeasterly line of S. Saginaw Road and the west 1/8 line of said Section 15, thence north 51°-23' east 240 feet to beginning point of said line to be described, thence north 38°-37' west to north 1/8 line of said Section 15.

Nothing in this section shall prohibit the use of said property, not actually devoted to use as a site for housing for the elderly, for park and recreational purposes.  
(Ord. No. 868, § 1, 8-5-75)

**Secs. 2-173--2-180. Reserved.**

**ARTICLE VII.**

**RESERVED\***

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\* **Editors Note:** Ord. No. 1307, § 1, adopted November 7, 1994, repealed Art. VII, §§ 2-181--2-184, in its entirety. Former Art. VII pertained to the community relations commission, and derived from the original code, Ord. No. 778, § 1, adopted July 6, 1971 and Ord. No. 851, § 3, adopted February 3, 1975.

**Charter References:** Advisory commissions generally, § 5.13.

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**Secs. 2-181--2-194. Reserved.**

**ARTICLE VIII.**

**RESERVED\***

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\* **Editors Note:** Ord. No. 1305, § 1, adopted November 7, 1994, repealed Art. VIII, §§ 2-195--2-204, in its entirety. Former Art. VIII pertained to the beautification commission and derived from Ord. No. 851, § 4, adopted February 3, 1975; and Ord. No. 1227, § 1, adopted September 30, 1991.

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**Secs. 2-195--2-209. Reserved.**

**ARTICLE IX.**

**LOCAL OFFICERS' COMPENSATION COMMISSION\***

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\* **Charter References:** Salary of members of council, § 4.3.

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**Sec. 2-210. Local officers' compensation commission--Creation; composition; qualifications; terms of office; time of appointment; vacancies; eligibility restriction.**

A local officers' compensation commission is created which shall determine the salaries of the mayor and members of the city council. The commission shall consist of seven (7) members who are registered electors of the city, appointed by the mayor subject to confirmation by a majority of the members elected and serving on the city council. The terms of office of members of said commission shall be seven (7) years, except that of the members first appointed, one each shall be appointed for terms of one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) years. All first members shall be appointed within thirty (30) days after the effective date of this article. Thereafter members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term. No member or employee of the legislative, judicial or executive branch of any level of government or members of the immediate family of such member or employee shall be eligible to be a member of the commission. (Ord. No. 832, § 1, 5-13-74)

**Sec. 2-211. Determination of salaries; rejection by council; effective date; existing salary; expenses.**

The commission shall determine the salaries of the mayor and councilmen, which determination shall be the salaries unless the city council, by resolution adopted by two-thirds ( 2/3) of the members elected to and serving on the council, reject them. The determinations of the commission shall be effective thirty (30) days following their filing with the city clerk unless rejected by the city council. In case of rejection, the existing salary shall prevail. Any expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city. (Ord. No. 832, § 1, 5-13-74)

**Sec. 2-212. Meetings and time of determination; quorum, chairman; session days; compensation and expenses.**

The commission shall meet for not more than fifteen (15) session days after September 15, in the year 1975, and every odd numbered year thereafter and shall make its determination within forty-five (45) calendar days of its first meeting. A majority of the members of the commission constitute a quorum for conducting business of the commission. The commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairman from among its members. "Session days" means any calendar day on which the commission meets and a quorum is present. The members of the commission shall receive no compensation, but they shall be entitled to their actual and necessary expenses incurred in the performance of their duties and shall not have the power to expend public funds. (Ord. No. 832, § 1, 5-13-74)

**Sec. 2-213. Change of procedure, time and method.**

After one year following the effective date of this article, the procedure for establishing the compensation of elected officials may be changed by charter amendment or revision. (Ord. No. 832, § 1, 5-13-74)

**Sec. 2-214. Referendum or other petition; signatures of electors; conduct of election; effectiveness of determination.**

Within sixty (60) days after the effective date of this article, a petition for a referendum on the ordinance adopting this article may be filed in accordance with the procedures provided in chapter 6 of the Midland City Charter by filing a petition with the city clerk containing the signatures of at least five per cent (5%) of the registered electors of the City of Midland on the effective date of this article, in which case the election shall be conducted in the same manner as an election on the charter amendment. If a petition for referendum is filed pursuant to the provisions of this section, any determination of the commission shall not be effective until the ordinance has been approved by the electors. (Ord. No. 832, § 1, 5-13-74)

**ARTICLE X.**

**UNEMPLOYMENT COMPENSATION SYSTEM\***

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\* **Editors Note:** Ord. No. 847, § 1, adopted Dec. 16, 1974, amended this Code by adding Art. X, §§ 2-215--2-233, as herein set out.

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**Sec. 2-215. Established.**

There is hereby established an unemployment compensation system and benefit plan for employees of the city to be administered by the merit system board. This plan is established pursuant to Act No. 170 of the Public Acts of 1958, as amended, of the State of Michigan.  
(Ord. No. 847, § 1, 12-16-74)

#### **Sec. 2-216. Definitions.**

*Average weekly wage* with respect to a base period of employment shall be the amount determined by dividing total wages paid by the city for credit weeks earned in the employment of the city by the number of such credit weeks chargeable to the city as employer.

*Base period* means the period of fifty-two (52) consecutive calendar weeks ending with the day immediately preceding the first day of an individual's benefit year.

*Benefit year* with respect to any individual means the period of fifty-two (52) consecutive calendar weeks beginning with the first calendar week with respect to which the individual who does not already have a benefit year in effect, files a claim for benefits under this article, provided that the individual has earned wages of at least twenty-five dollars and one cent (\$25.01) in fourteen (14) or more calendar weeks within the base period. Each such week shall be a credit week.

*Benefits* means the money payments payable to an eligible and qualified individual, as provided in this article, with respect to unemployment.

*Secretary-Clerk.* All references to secretary-clerk herein shall refer to the secretary-clerk of the merit system board.

*Unemployed.* An individual shall be deemed unemployed with respect to any week during which he performs no services and with respect to which no remuneration is payable to him, or with respect to any week of less than full-time work if the remuneration payable to him is less than his weekly benefit rate.

*Wages* means remuneration paid for employment but shall not include any employee payment for life or health insurance, pension, equipment allowance or similar payment.  
(Ord. No. 847, § 1, 12-16-74)

#### **Sec. 2-217. Benefit rates.**

Benefit payments shall begin with the effective date of unemployment and shall be calculated according to the following rules:

- (a) The weekly benefit rate and amount of the weekly benefit payment shall be determined in accordance with all of the relevant provisions as set forth in Section 27 of the Michigan Employment Security Act, as amended, and as set forth in the MESA Weekly Benefit Rate Table in effect at the time an employee is laid off.
- (b) The dependency class category of a laid-off employee shall be determined as stipulated and provided by the Michigan Employment Security Act, as amended. A dependent shall be defined by the Michigan Employment Security Act, as amended.
- (c) Employees shall be entitled to three (3) weeks of benefits for each four (4) credit weeks earned working for the city, up to a maximum of twenty-six (26) weeks of benefits for thirty-five (35) earned credit weeks, provided that the claimant has worked at least thirty-five (35) weeks in the fifty-two (52) weeks preceding the week in which the claimant applied for benefits. The minimum duration shall not be less than ten and one-half (10 1/2) weeks if the claimant worked fourteen (14) weeks and earned at least twenty-five dollars and one cent (\$25.01) in each week. An employee having worked thirty-four (34) credit weeks shall be entitled to the maximum benefits of twenty-six (26) weeks.
- (d) Any change in the rate of regular benefits and their duration that would be mandatory to meet the requirements for equivalency with the Michigan Employment Security Act, as amended, shall become effective on the same day to change the method of determination of amounts of benefit payment as provided in this section.



(Ord. No. 847, § 1, 12-16-74; Ord. No. 849, § 1, 1-6-75; Ord. No. 870, § 1, 9-8-75)

**Sec. 2-218. Authorization of payment.**

Payment of unemployment benefits shall be based on a certification from the secretary-clerk to the finance director. Such certification shall contain all information necessary for payment. A record of the benefits received by each individual shall be maintained by the secretary-clerk.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-219. Employees covered.**

Except as provided by section 2-220, employees covered by this unemployment compensation system shall consist exclusively of the employees in the classified and unclassified service of the City of Midland as defined by section 2-67 and section 2-68, parts (a) and (b) of the Code of Ordinances.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-220. Employees and persons not covered.**

Employees not covered by this unemployment compensation system shall be:

- (a) Persons providing contractual service to the city as specialists, independent contractors or employees thereof.
- (b) Employees who are or were at the time of their employment by the city students enrolled on a regular basis in high school, college, graduate school or any other school in which their primary status is clearly that of a student or any person hired as students.
- (c) Seasonal, temporary and part-time employees as defined by the rules of the merit system board, and employees who have not completed a required probationary period after entrance to city service.
- (d) Employees whose services are performed under a federal or state program which derives at least fifty (50) per cent of its funds from federal or state sources specifically allocated to such program.
- (e) Service by a student under the age of eighteen (18) regularly attending either a public or private school below the college level and the employment was part time or within the vacation period of the school or a part of the school curriculum.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-221. Eligibility for benefits.**

A claimant to be eligible for benefits must be unemployed, as defined, and must make a claim for benefits in the manner prescribed by the secretary-clerk, and further must:

- (a) Be able and available to perform full-time work which he is qualified to perform by past experience or training, and of a character generally similar to work for which he has earned wages; and
- (b) Be in compliance with registration and reporting requirements; and
- (c) *Be seeking work.*

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-222. Disqualifications.**

A claimant is disqualified from receiving benefits if the secretary-clerk finds that an individual is unemployed due to an ineligible termination or separation as specified in section 2-223, has left his work voluntarily, or has accepted permanent full-time work with another employer, or has failed without just cause to apply for available suitable work or has failed to accept suitable work when offered, or has failed when directed to return to his customary work.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-223. Ineligible terminations and separations.**

An employee shall not be eligible for benefits under the unemployment compensation system established by this article if the unemployment shall result from:

- (a) Retirement under the provisions of any plan now in effect for city employees or which may in the future be adopted.
- (b) Discharge or suspension for misconduct connected with one's work, for intoxication while at work, for absence due to imprisonment, or for an act of assault, theft or sabotage connected with his work.
- (c) Resignations, including resignations in lieu of discharge.
- (d) Leaves of absence for any reason, whether voluntary or involuntary.
- (e) Temporary separations made at the request of the employee.
- (f) Participation or direct interest in a labor dispute, including any strike, work stoppages not authorized by the city, or other concerted action.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-224. Payment of and restrictions on benefits.**

Benefits shall be paid weekly at a time and place fixed by the merit system board. All beneficiaries must report weekly to the merit board office on designated days for weekly benefit checks and determination of continuing eligibility. For continuing eligibility a beneficiary must be actively seeking work and must be registered with the Michigan Employment Security Commission. No beneficiary who shall refuse any reasonable bona fide offer of employment shall receive any benefits after such refusal.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-225. Rules and procedures.**

Rules and procedures, including any necessary forms, may be established by the merit system board to administer the unemployment compensation system. Such rules and procedures shall be effective upon adoption by a majority affirmative vote of the merit system board. The secretary-clerk or his designee may bring suit in the name of the city to recover any moneys paid upon a fraudulent or untrue application or claim.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-226. Determinations.**

The secretary-clerk or his designee shall promptly make a determination after an application for benefits is filed whether the claimant is a covered individual, eligible and qualified to draw benefits based upon the available information. The issuance of each benefit check shall be considered a determination that the claimant receiving the check was a covered individual eligible and qualified for benefits. Where a claimant refuses work or fails to apply for work or in any other way is or becomes disqualified or ineligible for benefits, the secretary-clerk or his designee shall promptly make a written determination of such disqualification or ineligibility and shall send the claimant notice thereof.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-227. Redeterminations.**

Upon the written request of any claimant within fifteen (15) days following any determination or decision respecting qualification, eligibility or rate of benefits, the secretary-clerk or his designee shall promptly review the prior determination and, if necessary, may order a hearing thereon. Upon review, with or without hearing, the secretary-clerk or his designee shall issue a redetermination affirming, modifying or reversing the prior determination and stating the reasons therefor. Such redetermination shall be final unless an appeal is filed as provided in section 2-228 below.

(Ord. No. 847, § 1, 12-16-74)

**Sec. 2-228. Appeals.**

It shall be the duty of the merit system board to review redeterminations and decisions of the secretary-clerk pertaining to this unemployment compensation system, provided that a claim of appeal is filed within fifteen (15) days of such decision or redetermination. The time to file a claim of appeal shall not begin until an employee has been notified in writing of his right to appeal. (Ord. No. 847, § 1, 12-16-74)

**Sec. 2-229. Merit system board powers and duties.**

The merit system board may on its own motion affirm, modify, set aside or reverse any decision or order on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision or order to initiate further appeals before it. The merit system board shall promptly notify parties of its findings and decisions and its reasons therefor, but may omit the giving of any reasons if the previous order, decision or determination is affirmed without any alteration or modification. (Ord. No. 847, § 1, 12-16-74)

**Sec. 2-230. Procedure, reports, record of proceedings on appeal, transcripts of testimony.**

The manner in which appeals to the merit system board shall be presented, the reports thereon required from the interested party or parties, and the procedure governing such appeals shall be in accordance with rules prescribed by the merit system board. A full and complete record shall be kept of all proceedings in connection with an appeal. Staff, space and such clerical service as is needed shall be provided by the secretary-clerk to the merit system board. (Ord. No. 847, § 1, 12-16-74)

**Sec. 2-231. Extension of time.**

Whenever the last day of the period to apply for a redetermination or to appeal any decision, determination or redetermination falls on a Saturday, Sunday or legal holiday, such period shall run until the end of the next day which is not a Saturday, Sunday or holiday. (Ord. No. 847, § 1, 12-16-74)

**Sec. 2-232. Finances.**

Financing shall be accomplished through the unemployment compensation system fund, herewith established to account for related revenue and expenditures, including payment of unemployment benefits. The city manager shall recommend to the city council annual appropriations to be made for this activity. (Ord. No. 847, § 1, 12-16-74)

**Sec. 2-233. False statements.**

No person shall, with intent to deceive, make any false or untrue statements or reports. In lieu of criminal action based on any false or untrue statements or reports, the secretary-clerk may recommend disciplinary or other action to the controlling department, board or commission. (Ord. No. 847, § 1, 12-16-74)

**Secs. 2-234--2-239. Reserved.**

**ARTICLE XI.**

**GENERAL REQUIREMENTS FOR MEMBERS OF BOARDS AND COMMISSIONS\***

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\* **Editors Note:** Ord. No. 880, §§ 1--4, adopted Feb. 3, 1975, amended this Code by adding Art. XI, §§ 2-240--2-243, as herein set out.

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**Sec. 2-240. Qualifications of members of boards and commissions.**

No person shall be appointed to a board or commission established by the Charter or the Code of Ordinances of the city unless said person shall be, at the time of his appointment, a resident of the city, unless such requirement is specifically waived by a four-fifths vote of the city council.  
(Ord. No. 850, § 1, 2-3-75)

**Sec. 2-241. Maintenance of city residence by members of boards and commissions.**

All members of boards and commissions created pursuant to the Charter of the city or the provisions of this Code shall hold office during the term for which they are appointed; provided, however, that should any member of any such board or commission cease to be a resident of the city, his position on said board or commission shall immediately be deemed vacant and he shall no longer serve on such board or commission, unless the council shall, by resolution of four-fifths of its members, continue such member for the balance of his term.  
(Ord. No. 850, § 2, 2-3-75)

**Sec. 2-242. Effect on prior appointments to boards and commissions.**

The provisions of the foregoing two sections of this article shall be effective only as to appointments made after January 1, 1975.  
(Ord. No. 850, § 3, 2-3-75)

**Sec. 2-243. Regular attendance by members of boards and commissions.**

The position of a member of any board or commission established by the Charter or the Code of Ordinances of the city that meets more often than quarterly shall be considered vacant if such members shall miss four (4) consecutive, regular held meetings of the board or commission. Notwithstanding the foregoing, the position of a member of any board or commission established by the Charter or Code of Ordinances of the city shall be considered vacant if such member shall miss more than twenty-five (25) percent of regular meetings scheduled in any fiscal year.  
Exception: The Downtown Development Authority shall be exempt from this section.  
(Ord. No. 850, § 4, 2-3-75; Ord. No. 1583, § 1, 07-19-04; Ord. No. 1606, § 1, 09-12-05)

**Sec. 2-244. Expiration of term of office.**

Notwithstanding any contrary provision or absence of provision concerning term of office in any ordinance creating a board or commission, any member of a board or commission established by the Code of Ordinances of the City shall hold office for the term established by the ordinance creating such board or commission, or until a successor is appointed by the city council.  
(Ord. No. 1298, § 1, 6-27-94)

**Secs. 2-245--2-249. Reserved.**

**ARTICLE XII.**

**RESERVED\***

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\* **Editors Note:** Ord. No. 1309, § 1, adopted November 7, 1994, repealed Art. XII, §§ 2-250--2-259, in its entirety. Former Art. XII pertained to the historic advisory commission, and derived from Ord. No. 952, § 1, adopted July 16, 1979.

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**Secs. 2-250--2-259. Reserved.**

**ARTICLE XIII.**

**TAX EXEMPTION AND PAYMENT IN LIEU OF TAXES\***

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\* **Editors Note:** Ord. No. 1541, § 1, adopted September 9, 2002, changed the title of art. XIII from Tax Exemption for Charter

## Square and Green Hill to Tax Exemption and Payment in Lieu of Taxes.

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### **Sec. 2-260. Purpose.**

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivision to provide housing for its citizens of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA 125.1401 et seq., MSA 116.114(1) et seq.). The city is authorized by said act to establish or change the service charge to be aid in lieu of taxes by any or all classes of housing exempt from taxation under the act at any amount it chooses, not to exceed the taxes that would be paid but for the act. It is further acknowledged that such housing for persons of low and moderate income is a public necessity; and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption therefor is a valid public purpose; further, that the continuance of the provisions of this article for tax exemption and the service charge in lieu of taxes during the periods hereinafter contemplated are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance thereon.  
(Ord. No. 948, § 2, 6-18-79)

### **Sec. 2-260.1. Charter Square.**

The city acknowledges that Charter Square Limited Dividend Housing Association (a sponsor, as defined herein) has offered, subject to receipt of a mortgage loan from the authority, to erect, own and operate a housing development identified as Charter Square on certain property located at:

Southeast of intersection of Jefferson and Wackerly Roads, Midland, Michigan, 48640; and further described as:

A parcel of land in the fractional northwest quarter of the fractional northwest one quarter of fractional Section 3, Township 14 North, Range 2 East, City of Midland, Midland County, Michigan, described as follows: Commencing on the west line of said fractional Section 3 at a point 370.00 feet, south 00 degrees 00 minutes 00 seconds west, from the northwest corner of Section 3; thence south 89 degrees 17 minutes 20 seconds east, parallel to the north line of said section, 895.00 feet; thence south 00 degrees 00 minutes 00 seconds west, parallel to said west section line, 621.16 feet to the so-called north one eighth line as defined prior deeds and evidenced by existing property corners; thence north 89 degrees 21 minutes 47 seconds west, on said so-called north one eighth line of said section, 643.99 feet; thence north 00 degrees 00 minutes 00 seconds east, parallel to said west section line, 224.00 feet; thence north 89 degrees 21 minutes 47 seconds west, parallel to said north one eighth line, 251.00 feet to the west line of fractional Section 3; thence north 00 degrees 00 minutes 00 seconds east, on said west section line, 398.32 feet to the point of beginning, containing 11.48 acres of land and subject to highway use of that portion of the west 40 feet thereof lying adjacent to the west section line. in the city to serve, in part, elderly persons of low and moderate income, and that Charter Square Limited Dividend Housing Association has offered to pay the city on account of the elderly portion of said development an annual service charge for public services in lieu of all taxes.

(Ord. No. 948, § 2, 6-18-79)

### **Sec. 2-260.2. Green Hill.**

The city further acknowledges that Green Hill Limited Dividend Housing Association (a sponsor, as defined herein) in reliance upon former section 2-5 of the Code of Ordinances of the City of Midland (Ordinance No. 892) which provided for tax exemption similar to that proposed herein has, pursuant to a mortgage loan from the authority, erected, operated and maintained a housing development identified as Green Hill on certain property located at: 1010 Eastlawn, Midland, Michigan 48640 and further described as: A parcel of land, being a part of the Reinhart's Addition to the City of Midland, according to the plat thereof recorded in Liber A, Page 28 of Plats, Midland County Records, and also a part of the so-called west 7 1/2 acres of the east 22 1/2 acres of the northwest quarter of the southeast quarter of Section 15, Township 14 North, Range 2 East, City of Midland, Midland County, Michigan, described as follows: Commencing on the east and west quarter of said section at a point 1,989.53 feet, south 90 degrees 00 minutes 00 seconds west, of the east quarter corner of said section; thence south 00 degrees 52 minutes 00 seconds west, on a line which is parallel to and 180.00 feet, measured parallel to said east and west quarter line, west of the west line of Pleasant Acres Subdivision, according to the plat thereof recorded in Liber A, Page 75 of Plats, Midland County Records, 497.00 feet; thence north 89 degrees 08 minutes 00 seconds west, perpendicular to said west line of Pleasant Acres Subdivision, 165.28 feet; thence north 38 degrees 24 minutes 21 seconds west, parallel to the northeasterly line of the Wisconsin Street, right-of-way, 115.69 feet; thence south 51 degrees 35 minutes 39 seconds west, perpendicular to said northeasterly line, 68.00 feet; thence north 38 degrees 24 minutes 21

seconds west, parallel to said northeasterly line of Wisconsin Street, 220.00 feet to the northwesterly line of Lot 1 of Block A of said Reinhart's Addition; thence north 51 degrees 35 minutes 39 seconds east, on the northwesterly line of said Lot 1, 45.00 feet to the northwest corner of said Lot 1; thence south 38 degrees 24 minutes 21 seconds east, on the northeasterly line of said Lot 1, 48.62 feet to the common corner of Lots 29 and 1 of said Block A, said common corner being also located on the northwesterly line of vacated Dexter Court; thence north 30 degrees 49 minutes 15 seconds east, on the common line of said Lot 29 and said vacated Dexter Court, 16.75 feet to a point on the arc of a curve to the right a radius of 40.00 feet; thence northeasterly on the arc of said curve, being also the common line of said Lot 29 and said vacated Dexter Court, 15.32 feet to a point, said arc being subtended by a chord bearing north 41 degrees 28 minutes 48 seconds east, 15.23 feet to said point; thence north 00 degrees 53 minutes 39 seconds east, parallel to the east line of said Reinhart's Addition, 98.01 feet to the northeast corner of said Lot 29; thence north 90 degrees 00 minutes 00 seconds east, on the common line of Lots 28 and 9 of said Block A, 60.00 feet to the southwest corner of Lot 10 of said Block A; thence north 00 degrees 53 minutes 39 seconds east, on the west line of said Lot 10, 120.00 feet to the northwest corner of said Lot 10; thence north 90 degrees 00 minutes 00 seconds east, on the north line of said Block A, being a line which is parallel to and 40.00 feet, measured at right angles, south of the east and west quarter line of said section, 220.00 feet to the east line of said Reinhart's Addition to the City of Midland; thence north 00 degrees 53 minutes 39 seconds east, on said east line of said Reinhart's Addition, 40.00 feet to said east and west quarter line; thence north 90 degrees 00 minutes 00 seconds east, on the east and west quarter line of said section, 66.44 feet to the point of beginning, containing 3.37 acres of land and subject to highway use of that portion of the north 40 feet thereof, which lies adjacent to the east and west quarter line of said section. Also subject to existing easements for Consumers Power Company. Also subject to an existing utility easement for the City of Midland over vacated Dexter Court.

in the city to serve, in part, elderly persons of low and moderate income and that Green Hill Limited Dividend Housing Association has paid to the city on account of the elderly portion of said development an annual service charge for public services in lieu of all taxes as provided in former section 2-5 of the Code of Ordinances of the City of Midland (Ord. No. 892). (Ord. No. 948, § 2, 6-18-79)

#### **Sec. 2-260.3. Bracken Woods Apartments.**

The city acknowledges that Bracken Woods Limited Dividend Housing Association Limited Partnership (a sponsor, as defined herein) has offered, subject to receipt of a mortgage loan from the authority, to erect, own, operate and maintain a housing development identified as Bracken Woods Apartments on certain property located at:

5301 Dublin Street, Midland, Michigan 48640;

and further described as:

The south 660 feet of the northeast 1/4 of the southeast 1/4 of Section 1, T14N, R1E, City of Midland, Midland County, Michigan. And also described as: Beginning at a point of the east line of Section 1, T14N, R1E, City of Midland, that is south 0 degrees 13 minutes 39 seconds west, 671.46 feet from the east 1/4 corner of Section 1; thence continuing south 0 degrees 13 minutes 39 seconds west, 660.00 feet; thence north 89 degrees 43 minutes 49 seconds west, 1324.37 feet; thence north 0 degrees 17 minutes 24 seconds east, 660.00 feet; thence south 89 degrees 43 minutes 49 seconds east, 1323.65 feet to the point of beginning. Reserving therefrom that part used, taken or deeded for Dublin Road, so-called. Containing 20.06 acres or 873,847 feet more or less.

in the city to serve low income persons, and that Bracken Woods Limited Dividend Housing Association Limited Partnership has offered to pay the city on account of said housing development an annual service charge for public services in lieu of all taxes. (Ord. No. 1332, § 2, 11-20-95)

#### **Sec. 2-260.4. Grove Street Commons I.**

The city acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)(3) Corporation (a sponsor, as defined herein) has offered, subject to an allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code of 1986, as amended, to erect or operate and maintain a housing development identified as Grove Street Commons I, located on the following described property:

Lots 13 and 14, and the Southeast 1/2 of Lot 15 of Block 57 of Larkin's Addition to the City of Midland, recorded in Liber A, Page 26, of Midland County records, more particularly described as part of Section 16 and part of Section 21, T14N, R2E, City of Midland, Midland County, Michigan, beginning at the East corner of Block 57 of said Larkin's Addition to the City of

Midland; thence N 46 degrees 02 minutes 23 seconds W, 150.00 feet; thence S 44 degrees 00 minutes 00 seconds W, 120.47 feet; thence S 46 degrees 05 minutes 15 seconds E, 150.00 feet; thence N 44 degrees 00 minutes 00 seconds E, 120.34 feet to the point of beginning.

(Ord. No. 1418, § 3, 7-13-98; Ord. No. 1463, § 1, 12-20-99)

#### **Sec. 2-260.5. Grove Street Commons II.**

The city acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)(3) Corporation (a sponsor, as defined herein) has offered, subject to an allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code of 1986, as amended, to erect or operate and maintain a housing development identified as Grove Street Commons II, located on the following described property:

Lots 10, 11, 12, and the Southeast 25 feet of Lot 9, Block 57 of Larkin's Addition to the City of Midland, recorded in Liber A, Page 26, of Midland County records, more particularly described as part of Section 16 and part of Section 21, T14N, R2E, City of Midland, Midland County, Michigan, beginning at a point which is S 44 degrees 00 minutes 00 seconds W, 120.34 feet from the East corner of Block 57 of said Larkin's Addition to the City of Midland; thence S 44 degrees 00 minutes 00 seconds W, 120.34 feet; thence N 46 degrees 08 minutes 09 seconds W, 205.00 feet; thence S 44 degrees 00 minutes 00 seconds E, 120.51 feet; thence S 46 degrees 05 minutes 15 seconds E, 205.00 feet to the point of beginning.

(Ord. No. 1419, § 3, 7-13-98; Ord. No. 1464, § 1, 12-20-99)

#### **Sec. 2-260.6. The Village At Joseph's Run.**

The city acknowledges that Joseph's Village Limited Dividend Housing Association Limited Partnership (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as The Village At Joseph's Run, located on the following described property:

Part of the South 1/2 of the North 1/2 of the Southwest 1/4, Section 34, T15N-R2W, Larkin Township, Midland County, Michigan, being further described as commencing at the Southwest corner of said section; thence N 00 degrees 30 feet 48 inches W, 1318.01 feet, along the West section line to the South 1/8 line; thence along said 1/8 line, N 89 degrees 54 feet 40 inches E, 1265.93, feet to the point of beginning; thence N 00 degrees 37 feet 19 inches W, 424.29 feet, to the centerline of Joseph Drive; thence along said centerline along a curve to the right 82.77 feet, having a radius of 1637.02 feet, and a central angle of 02 degrees 53 feet 49 inches, and a chord bearing and distance of N 88 degrees 27 feet 46 inches E, 82.76 feet; thence along said centerline of Joseph Drive N 89 degrees 54 feet 40 inches E, 1299.84 feet, to the North and South 1/4 line; thence along said 1/4 line S 00 degrees 37 feet 19 inches E, 426.39 feet, to the South 1/8 line; thence along said 1/8 line, S 89 degrees 54 feet 40 inches W, 1382.59 feet, to the point of beginning, containing 13.54 acres (net 12.49 acres) more or less, subject to any and all easements and/or right of way whether used, implied or of record.

(Ord. No. 1494, § 2, 2-19-01)

#### **Sec. 2-260.7. Granite Club Acres #1.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)(3) corporation (a Sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the Authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as Granite Club Acres #1, located on the following described property:

Part of the S 1/2 of the NW 1/4 of Section 24, T14N-R2E, City of Midland, Midland County, Michigan, being further described as commencing at the west 1/4 corner of said section; thence N 88(57'00" E, 2138.43 feet, along the east-west 1/4 line; thence N 00(33'05" E, 590.38 feet; thence N 88(57'00" E, 187.35 feet, to the point of beginning; thence continue N 88(57'00" E, 205.26 feet to the southwesterly railroad right-of-way line; thence along said southwesterly line, N 00(03'00" E, 21.01 feet; thence along the arc of a curve to the left, an arc distance of 184.35 feet, said curve having a radius of 778.31 feet, chord bearing and distance of N 06(44'09" W, 183.92 feet and a central angle of 13(34'15"; thence N 75(00'00" W, 152.11 feet; thence S 00(33'05" W, 95.23 feet; thence S 22(30'00" W, 91.93 feet; thence S 00(33'05" W, 66.63 feet, to the point of beginning, containing 0.92 acres, more or less.

(Ord. No. 1505, § 2, 4-23-01)

#### **Sec. 2-260.8. Chippewassee Court Phase I.**

The city acknowledges that the Affordable Housing Alliance Of Midland County, a 501(c)(3) corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as Chippewassee Court Phase I, located on the following described property:

Beginning at a point on the south line of Section 18, T14N, R2E, 137.10 feet west of the west 1/8 corner, thence north and parallel to the west 1/8 line 150.90 feet; thence west 97.45 feet; thence north 129.10 feet, more or less to the south line of Cone's Subdivision, thence west 274.6 feet along the south line of Cone's Subdivision; thence south 280 feet, more or less to the south line of Section 18; thence east along said line 372.9 feet to the place of beginning, being a part of the southwest 1/4 of the southwest 1/4 of Section 18, T14N, R2E, except beginning 137.10 feet west of the west 1/8 corner on the south line of Section 18, T14N, R2E, City of Midland, Midland County, Michigan; thence north and parallel to said 1/8 line 150.90 feet; thence west and parallel to said south section line 240 feet; thence south and parallel to said 1/8 line 150.90 feet; thence east 240 feet to the point of beginning.

(Ord. No. 1521, § 2, 1-28-02)

#### **Sec. 2-260.9. Adams Acres Phase I.**

The city acknowledges that the Adams Acres Limited Dividend Housing Association Limited Partnership, a 501(c)(3) corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as Adams Acres Phase I, located on the following described property:

Beginning at the northwest corner of lot 16, Adams Acres Subdivision No. 1, according to the plat thereof recorded in Liber D Of Plats, pages 25 and 26, Midland County records, Section 34, T14N, R2E, City Of Midland, Midland County, Michigan; thence south 114 feet to the south plat line of Adams Acres Subdivision No. 1; thence east along said south plat line 261.94 feet; thence north 47° 04' 51" east 165.74 feet; thence north 06° 18' 11" east 165.92 feet to the south line of lot 23 of said subdivision; thence north 00° 02' 03" east along a line ten (10) feet west of the east plat line of Adams Acres Subdivision No. 1 to the north line of lot 27; thence west along the north line of lot 27 to the east r/w line of Lee Street; thence southerly along the east and south r/w line of Lee Street to the point of beginning.

(Ord. No. 1541, § 3, 9-9-02)

#### **Sec. 2-260.10. Chippewassee Court Phase II.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)(3) corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the Authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as Chippewassee Court Phase II, located on the following described property:

Commencing 1,437 feet east of the SW corner government lot 9, Section 18, thence north 264 feet, east 165 feet, south 264 feet, west 165 feet to the point of beginning and also beginning 45 feet east of the southwest corner of lot 169 of Cones Subdivision, then north 38 feet, west 165 feet, south 38 feet, east 65 feet to the point of beginning (parcel code 14-18-50-022); and also beginning 1,602 feet east of the SW corner of government lot 9, Section 18, thence east 3.55 feet, north 264 feet, west 3.55 feet, south 264 feet to the point of beginning.

(Ord. No. 1557, § 2, 1-27-03)

#### **Sec. 2-260.11. 606/608 Hemlock Street.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 606/608 Hemlock Street located on the following described property:

South 36 feet OF LOTs 2 and the North 51.5 feet OF LOT 3 Block J Carter Subdivison.

(Ord. No. 1644, § 1, 11-19-07)



**Sec. 2-260.12. 5004 Tucker Street.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 5004 Tucker Street located on the following described property:

Beginning 173.5 feet East and 45 rods North OF Southwest corner OF southeast 1/4 of southwest 1/4 Section 4, East 123.5 feet, North 82.5 feet, West 123.5 Feet, South 82.5 feet to the beginning.  
(Ord. No. 1644, § 1, 11-19-07)

**Sec. 2-260.13. 1111 Franklin Street.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 1111 Franklin Street located on the following described property:

Lot 12 Block 12 of Dow Chemical Company addition.  
(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-260.14. 4301 Hancock Drive.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 4301 Hancock Drive located on the following described property:

Lot 195 of Adams Acres Subdivision No. 1.  
(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-260.15. 310 E. PINE STREET.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 310 E. Pine Street located on the following described property:

Northwest 50 feet of the Northeast 100 feet of Lot 2 Block 65 Carpenters Division, Liber 565 Page 390.  
(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-260.16. 1414 Lincoln Street.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 1414 Lincoln Street located on the following described property:

Beginning 339 feet East and 513 feet North of the Southwest Corner of Section 15 thence North 60 feet, East 120 feet, South 60 feet, West 120 feet to the point of beginning.  
(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-260.17. 1417 Mill Street.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 1417 Mill Street located on the following described property:

Lot 38 of Highlandview Subdivision and beginning at the Southwest Corner of Lot 38, Southeast to Northwest Line of Mill Street, Northeast to South 1/8 Line of Section 16, West 66.29 feet to the point of beginning.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-260.18. 2520 Charles Street.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 2520 Charles Street located on the following described property:

East 42.67 feet of Lot 2 and West 42.67 feet of Lot 3 of Williams Subdivision.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-260.19. 528 Cottonwood Street.**

The City acknowledges that the Affordable Housing Alliance of Midland County, a 501(c)3 corporation (a sponsor, as defined herein) has offered, subject to allocation of tax credit financing from the authority, under Section 42 of the Internal Revenue Code, as amended, to erect or operate and maintain a housing development identified as 528 Cottonwood Street located on the following described property:

Lot 5 of Block I of Carter Subdivision.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-261. Definitions.**

(a) *Act* means the State Housing Development Authority Act, being Public Act of 346 of 1966 of the State of Michigan, as amended.

(b) *Annual shelter rent* means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

(c) *Authority* means the Michigan State Housing Development Authority.

(d) *Contract rents* are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1947, as amended by the Housing and Community Development Act of 1947. It is understood that such rents are meant to be the tenants' rental contributions plus any federal subsidies.

(e) *Elderly* shall mean a family wherein the head of the household is sixty-two (62) years of age or older or a single person who is sixty-two (62) years of age or older.

(f) *Housing development* means a development which contains a significant element of housing for low income persons or elderly persons of low income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines improve the quality of the development as it relates to housing for low income persons or elderly persons of low income.

(g) *Low income persons* means persons and families eligible to move into a housing development financed by the authority.

(h) *Mortgage loan* means a loan made or to be made by the authority to sponsors for the construction and/or permanent financing of the housing developments.

(i) *Sponsor* means persons or entities which have applied to the authority for, or previously received from the authority, a mortgage loan to finance a housing development.

(j) *Utilities* means fuel, water, sanitary sewer service and/or electrical service, which are paid by the development.  
(Ord. No. 948, § 2, 6-18-79; Ord. No. 1332, § 1, 11-20-95; Ord. No. 1418, § 1, 7-13-98; Ord. No. 1419, § 1, 7-13-98)

**Sec. 2-262. Class of housing developments.**

It is hereby determined that the class of housing developments to which the tax exemption shall apply, and for which a service charge shall be paid in lieu of such taxes, shall be that portion of a development which is for elderly persons or low-income persons and which is financed or assisted pursuant to the act. It is further determined that Grove Street Commons I, Grove Street Commons II, The Village At Joseph's Run, Granite Club Acres #1, Chippewassee Court Phase I, Chippewassee Court Phase II, Adams Acres Phase I, 606/608 Hemlock Street, 5004 Tucker Street, 1111 Franklin Street, 4301 Hancock Drive, 310 E. Pine Street, 1414 Lincoln Street, 1417 Mill Street, 2520 Charles Street and 528 Cottonwood Street and the elderly portions of Charter Square and Green Hill are of this class.

(Ord. No. 948, § 2, 6-18-79; Ord. No. 1332, § 1, 11-20-95; Ord. No. 1418, § 2, 7-13-98; Ord. No. 1419, § 2, 7-13-98; Ord. No. 1494, § 1, 2-19-01; Ord. No. 1505, § 1, 4-23-01; Ord. No. 1521, § 1, 1-28-02; Ord. No. 1541, § 2, 9-9-02; Ord. No. 1557, § 1, 1-27-03; Ord. No. 1644, § 1, 11-19-07; Ord. No. 1685, § 1, 10-19-09)

#### **Sec. 2-263. Establishment of annual service charge for Charter Square.**

The housing development identified as the elderly portion of Charter Square and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction; provided, however, that the sponsor has complied with all requirements of the act concerning the obtaining of an exemption. The city, acknowledging that Charter Square Limited Dividend Housing Association and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this article and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established herein, and in consideration of the sponsor's offer, subject to receipt of a mortgage loan from the authority, to construct, own and operate said housing development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4) per cent of the contract rents less utilities.

(Ord. No. 948, § 2, 6-18-79)

#### **Sec. 2-264. Establishment of annual service charge for Green Hill.**

The housing development identified as the elderly portion of Green Hill and the property on which it is constructed shall be exempt from all property taxes from and after the effective date of this article; provided, however, that the sponsor has complied with all requirements of the act concerning the obtaining of an exemption. The city acknowledges that Green Hill Limited Dividend Housing Association and the authority have established the economic feasibility of the housing development in reliance upon the enactment of former section 2-5 of the Code of Ordinances of the City of Midland (Ordinance No. 892) and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established therein. The annual service charge established hereunder differs from that provided in former section 2-5 of the Code of Ordinances of the City of Midland (Ordinance No. 892). For purposes of continuity and to avoid discrimination, Green Hill Limited Dividend Housing Association and the authority have agreed to accept the annual service charge provided for herein in lieu of that set forth in former section 2-5 of the Code of Ordinances of the City of Midland (Ordinance No. 892). The annual service charge beginning with the 1979 calendar year shall be equal to four (4) per cent of the contract rents less utilities.

(Ord. No. 948, § 2, 6-18-79)

#### **Sec. 2-264.1. Establishment of annual service charge for Bracken Woods Apartments.**

The housing development identified as the Bracken Woods Apartments and the property on which it is constructed shall be exempt from all ad valorem property taxes. The exemption shall begin in the first tax year after which an affidavit has been submitted by the sponsor to the city assessor. The affidavit shall be in the form as provided by the authority and shall be certified by the authority and filed before November 1 of the year preceding the year in which the exemption is to begin. The exemption shall remain in effect until the mortgage loan is repaid or for thirty-five (35) years, whichever occurs first; provided however, that the sponsor has met with all qualifications of the act concerning the obtaining of an exemption. The city acknowledges that Bracken Woods Apartments and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this article and the qualification of the housing development for exemption from all ad valorem property taxes and a payment in lieu of taxes as established herein, and in consideration of the sponsor's offer, subject to receipt of a permanent mortgage loan from the authority, to construct, own, operate and maintain said housing development, hereby agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. The annual service charge shall be equal to four (4) per cent of all rental income less owner-paid utilities and vacancy losses.

Annual benefit of any tax exemption granted to the Bracken Woods Apartment housing development under this section shall

be defined as the amount by which seventy-eight thousand dollars (\$78,000.00) (indexed annually for the change in the U.S. Consumer Price Index and adjusted annually for additions and losses as defined in MCL 211.34d) exceeds the amount of the annual service charge for public services, and shall be allocated as follows:

1. The first twenty-one thousand one hundred fifty dollars (\$21,150.00) of annual benefit shall be allocated to the sponsor for principal and interest payments on the mortgage.
2. All benefits in excess of twenty-one thousand one hundred fifty dollars (\$21,150.00) shall be allocated by the sponsor exclusively to low income persons in the form of reduced housing charges, which shall be implemented beginning with the housing charge due for the month of January, 1996. For calendar year 1996, a total benefit of thirty-five thousand seven hundred twelve dollars (\$35,712.00) shall be allocated among the various classes of apartments in the following manner:
  - a. Housing charges for one-bedroom apartments shall be reduced by twenty-three dollars (\$23.00) per month.
  - b. Housing charges for two-bedroom apartments shall be reduced by twenty-seven dollars (\$27.00) per month.
  - c. Housing charges for three-bedroom apartments shall be reduced by thirty-two dollars (\$32.00) per month.

Housing charges shall continue to be reduced by said amounts for a consecutive seventeen-month period, until June 1997.

For calendar years after 1996, the annual reduction in housing charges shall be calculated by the sponsor and approved by the City of Midland finance department, and shall be allocated among the various classes of apartments (one-, two- and three-bedroom apartments) based on the relative percentage of total rental income generated by each individual class at full occupancy. Reduced housing charges shall be implemented annually beginning with the housing charge due for the month of June in the calendar year following the calendar year for which the service charge in lieu of taxes is determined and shall continue for a consecutive twelve-month period.

3. None of the annual benefit shall be retained or distributed to the sponsor in the form of limited dividend payments.

The sponsor shall make available to the City of Midland Finance Department all accounting records necessary to conduct an annual verification of compliance with the distribution of the annual benefit, including but not limited to any audits performed by the authority.

(Ord. No. 1332, § 2, 11-20-95)

#### **Sec. 2-264.2. Establishment of annual service charge for Grove Street Commons I.**

(a) *Annual service charge.* The housing development identified as Grove Street Commons I and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established herein, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own, and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4) percent of the annual shelter rents less utilities.

(b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), above, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1418, § 3, 7-13-98)

#### **Sec. 2-264.3. Establishment of annual service charge for Grove Street Commons II.**

- (a) *Annual service charge.* The housing development identified as Grove Street Commons II and the property on which

it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established herein, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own, and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4) percent of the annual shelter rents less utilities.

(b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), above, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not exempt.  
(Ord. No. 1419, § 3, 7-13-98)

#### **Sec. 2-264.4. Establishment of annual service charge for The Village At Joseph's Run.**

(a) *Annual service charge.* The housing development identified as The Village At Joseph's Run and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of the ordinance from which this section derives and the qualification of the housing development for exemption from all property taxes and a Payment In Lieu Of Taxes as established in the ordinance from which this section derives, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4) percent of the annual shelter rents less utilities.

(b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.  
(Ord. No. 1494, § 3, 2-19-01)

#### **Sec. 2-264.5. Establishment of Annual Service Charge For Granite Club Acres #1.**

(a) *Annual service charge.* The housing development identified as Granite Club Acres #1 and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this article, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4) percent of the annual shelter rents less utilities.

(b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.  
(Ord. No. 1505, § 2, 4-23-01)

#### **Sec. 2-264.6. Establishment of annual service charge for Chippewassee Court Phase I.**

(a) *Annual service charge.* The housing development identified as Chippewassee Court Phase I and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this section, and in consideration of the sponsor's offer, subject to

receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4) percent of the annual shelter rents less utilities.

(b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1521, § 2, 1-28-02)

#### **Sec. 2-264.7. Establishment of annual service charge for Adams Acres Phase I.**

(a) *Annual service charge.* The housing development identified as Adams Acres Phase I and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this section, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4) percent of the annual shelter rents less utilities.

(b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1541, § 3, 9-9-02)

#### **Sec. 2-264.8. Establishment Of Annual Service Charge For Chippewassee Court Phase II.**

(a) *Annual service charge.* The housing development identified as Chippewassee Court Phase II and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.

(b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (A), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1557, § 2, 1-27-03)

#### **Sec. 2-264.9. Establishment of annual service charge for 606/608 Hemlock Street.**

(a) *Annual service charge.* The housing development identified as 606/608 Hemlock Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.

- (b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1644, § 1, 11-19-07)

**Sec. 2-264.10. ESTABLISHMENT OF ANNUAL SERVICE CHARGE FOR 5004 TUCKER STREET.**

- (a) *Annual service charge.* The housing development identified as 5004 Tucker Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.

- (b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1644, § 1, 11-19-07)

**Sec. 2-264.11. Establishment of annual service charge for 1111 Franklin Street.**

- (a) *Annual service charge.* The housing development identified as 1111 Franklin Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.

- (b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-264.12. Establishment of annual service charge for 4301 Hancock Drive.**

- (A) *Annual service charge.* The housing development identified as 4301 Hancock Drive and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.

- (B) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income

persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-264.13. Establishment of annual service charge for 310 E. Pine Street.**

- (a) *Annual service charge.* The housing development identified as 310 E. Pine Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.
- (b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-264.14. Establishment of annual service charge for 1414 Lincoln Street.**

- (a) *Annual service charge.* The housing development identified as 1414 Lincoln Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.
- (b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-264.15. Establishment of annual service charge for 1417 Mill Street.**

- (a) *Annual service charge.* The housing development identified as 1417 Mill Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.
- (B) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-264.16. Establishment of annual service charge for 2520 Charles Street.**



- (a) *Annual service charge.* The housing development identified as 2520 Charles Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.
- (b) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-264.17. Establishment of annual service charge for 528 Cottonwood Street.**

- (a) *Annual service charge.* The housing development identified as 528 Cottonwood Street and the property on which it is located shall be exempt from all property taxes from and after the enactment of this ordinance and for the year subsequent to timely notification of exemption by the Michigan State Housing Development Authority. The City, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this ordinance, and in consideration of the sponsor's offer, subject to receipt of an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, to construct, own or operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four percent (4%) of the annual shelter rents less utilities.
- (B) *Limitation on the payment of annual service charge.* Notwithstanding subsection (a), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons shall be equal to the full amount of taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. No. 1685, § 1, 10-19-09)

**Sec. 2-265. Contractual effect of article.**

Notwithstanding the provisions of section 15(a)(5) of the act to the contrary, a contract between the city and the sponsors with the authority as third party beneficiary thereunder, to provide tax exemption and accept payments in lieu thereof as previously described is effected by enactment of this article.

(Ord. No. 948, § 2, 6-18-79)

**Sec. 2-266. Determination and payment of service charge.**

The amount of the service charge in lieu of taxes for the immediately proceeding calendar year shall be determined by the City of Midland finance department. The sponsor shall furnish to said department by March 15 of the calendar year following the calendar year for which the service charge in lieu of taxes is to be determined all documentation required to make said determination, which shall include but not be limited to the documentation required under section 2-264.1.

The service charge in lieu of taxes for the immediately preceding calendar shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before April 15 of the calendar year following the calendar year for which the service charge in lieu of taxes is to be determined.

(Ord. No. 948, § 2, 6-18-79; Ord. No. 1332, § 1, 11-20-95)

**Sec. 2-267. Duration.**

This article shall remain in effect and shall not terminate so long as a mortgage loan made to a sponsor for a development subject to this article remains outstanding and unpaid or the authority has any interest in property subject to a service charge under this

article, and so long as the project remains compliant with Section 42 of the Internal Revenue Code of 1986, as amended, if applicable; provided, that construction of any housing development subject to this article commences within one year from the effective date of the ordinance establishing the annual service charge for said development.

(Ord. No. 948, § 2, 6-18-79; Ord. No. 1418, § 4, 7-13-98; Ord. No. 1419, § 4, 7-13-98)

**Sec. 2-267.1. Duration of exemption for specific developments.**

With regard to specific developments which have been granted tax exemption under this article, each individual exemption shall remain in effect and shall not terminate so long as a mortgage loan exists, or a mutual agreement to terminate is reached between the parties.

(Ord. No. 1541, § 4, 9-9-02)

**Sec. 2-268. Severability.**

The various sections and provisions of this article shall be deemed to be severable; and should any section or provision of this article be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of the article as a whole or any section or provision hereof other than the section or provision so declared to be unconstitutional or invalid.

(Ord. No. 948, § 2, 6-18-79)

**Secs. 2-269, 2-270. Reserved.**

**ARTICLE XIV.**

**DIAL-A-RIDE ADVISORY COMMISSION\***

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\* **Editors Note:** Ord. No. 957, § 1, adopted Aug. 27, 1979, amended the Code by adding thereto provisions designated as Art. XIII, §§ 2-260--2-264. Inasmuch as Ch. 2 already contained an Art. XIII, with the concurrence of the city said new provisions are included herein as Art. XIV, §§ 2-271--2-275.

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**Sec. 2-271. Created.**

There is hereby established an advisory body to the city council to be known as the "Dial-A-Ride Advisory Commission".

(Ord. No. 957, § 1, 8-27-79)

**Sec. 2-272. Membership.**

Membership of the dial-a-ride advisory commission shall consist of five (5) voting members appointed by the city council. Each member shall be a resident of the city. One member shall be a handicapper. One member shall be a person sixty-five (65) years of age or older. One member shall be designated by the Midland County Council on Aging as its representative. The dial-a-ride transportation manager or his designated representative shall be an ex officio member without the right to vote.

(Ord. No. 957, § 1, 8-27-79; Ord. No. 1698, § 1, 5-24-10)

**State Law References:** Similar provisions, M.S.A., § 9.1097(10f); M.C.L.A., § 247.660e.

**Sec. 2-273. Terms of members.**

Each voting member of the dial-a-ride advisory commission shall be appointed for a term of three (3) years commencing on July 1, except that the members first appointed shall begin their terms immediately with the handicapper member and one (1) member at large being appointed for terms ending June 30, 1982, the other one (1) member at large being appointed for a term ending June 30, 1981, and the elderly member being appointed for a term ending July 1, 1980.

(Ord. No. 957, § 1, 8-27-79)

**Sec. 2-274. Internal administration.**

The dial-a-ride advisory commission shall select one of its voting members as chairman and shall designate the ex officio member as secretary. The commission shall adopt rules for the transaction of its business.

(Ord. No. 957, § 1, 8-27-79)

**Sec. 2-275. Duties and purpose.**

The dial-a-ride advisory commission will provide advice and information to the city council in the development of a public transportation service plan in the City of Midland. In the development of the plan, the advisory commission shall assist the city council in addressing the full range of public transportation issues relevant to persons sixty-five (65) years of age or older and handicappers. These public transportation issues may include any or all of the following:

- (a) Fare policies and structures;
- (b) Driver training;
- (c) Public education and system marketing;
- (d) Route selection;
- (e) Services and programs to meet the needs of all handicappers and persons sixty-five (65) years of age or older;
- (f) Other relevant ordinances, rules, and administrative requirements affecting senior and handicapper transportation; and/or
- (g) Development of comments on the public transportation service plan for transmittal to the State Department of Transportation and the East Central Michigan Planning and Development Region pursuant to the requirements of Public Act 51 of the Public Acts of the State of Michigan of 1951, as amended.

(Ord. No. 957, § 1, 8-27-79)

**State Law References:** Similar provisions, M.S.A., § 9.1097(1) et al; M.C.L.A., § 247.651 et al.

**Secs. 2-276--2-279. Reserved.**

**ARTICLE XV.**

**ABOLISHMENT OF OFFICE  
OF CONSTABLE**

**Sec. 2-280. Abolishment of office of constable.**

Pursuant to Section 32 of Public Act 279 of the Public Acts of the State of Michigan of 1909 as amended (MSA 5.2112; MCLA 117.32), the office of constable, described in Sections 3.1, 3.3 and 9.15 of the Charter of the City of Midland, is hereby abolished.

(Ord. No. 995, § 1, 12-22-80)

**Secs. 2-281--2-289. Reserved.**

**ARTICLE XVI.**

**RESERVED\***

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\* **Editors Note:** Ord. No. 1308, § 1, adopted November 7, 1994, repealed Art. XVI, §§ 2-290--2-297, in its entirety. Former Art. XVI pertained to the energy advisory commission, and derived from Ord. No. 994, § 1, adopted December 22, 1980.

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**Secs. 2-290--2-297. Reserved.**